



# The Yukon Legislative Assembly

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Number 22

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## **HANSARD**

**Monday, October 15, 1979 — 1:30 p.m.**

Speaker: The Honourable Donald Taylor

## Members of the Yukon Legislative Assembly

<b>Government Members</b>	<b>Constituency</b>
<b>(Progressive Conservative)</b>	
Donald Taylor	(Speaker) Watson Lake
Chris Pearson	(Government House Leader — responsible for Land Claims, Pipeline, Tourism and Economic Development, Economic Research and Planning, Renewable Resources) Whitehorse Riverdale North
Doug Graham	(Minister responsible for Education, Justice, Information Resources, Consumer and Corporate Affairs) Whitehorse Porter Creek West
Dan Lang	(Minister responsible for Highways and Public Works, Municipal and Community Affairs, Yukon Housing Corporation) Whitehorse Porter Creek East
Meg Sutherland McCall	(Minister responsible for Health and Human Resources) Klondike
Al Falle	Hootalinqua
Peter Hanson	Mayo
Jack Hibberd	(Deputy Chairman of Committee of the Whole) Whitehorse South Centre
Geoffrey Lattin	(Deputy Speaker and Chairman of Committee of the Whole) Whitehorse North Centre
Grafton Njootli	Old Crow
Howard Tracey	Tatchun
<b>Opposition Members</b>	
<b>(Liberal)</b>	
Iain MacKay	(Leader of Official Opposition) Whitehorse Riverdale South
Alice P. McGuire	Kluane
<b>(New Democratic Party)</b>	
Tony Penikett	Whitehorse West
<b>(Independent)</b>	
Maurice J. Byblow	Faro
Robert Flemming	Campbell

**Whitehorse, Yukon Territory****Monday, October 15, 1979****Mr. Speaker:** I will now call the House to order.

We will proceed at this time with Prayers.

Prayers

**Mr. Speaker:** Before proceeding with the Order Paper today, it does give the Chair a great deal of pleasure to introduce to you the Pages, who will be attending the House for the balance of the Sitting.

They are: Jamie Mooney, Edwin Vanderkley, Michael Giguere, Sandra Wheelton, Rosemarie Harris, Niesje Reibin, Cindy Laniuk, Carrie Wilhelm, Mike McLarnon, and Warren Bakk.

I am sure that all Members would join me in extending a welcome to all our Pages for the balance of this Sitting.

Applause

**Mr. Speaker:** I would invite our Pages to join us at this time.

We will now proceed to the Order Paper.

**DAILY ROUTINE****Mr. Speaker:** Are there any Returns or Documents for Tabling?**TABLING OF DOCUMENTS****Hon. Mr. Graham:** Mr. Speaker, I have for tabling two reports referred to in an address I made earlier this year: the Sharp Report on Rural Students in Urban School; and the Fleming Report on the Delivery of Special Education Services. Copies are available upon request to all Members of the Legislature.**Hon. Mr. Lang:** Mr. Speaker, I have for tabling the answer to a question by the Honourable Member from Kluane, concerning the cost of trailer lots located in Haines Junction.**Hon. Mrs. McCall:** Mr. Speaker, I would like to table the answer to Written Question Number 2, concerning government policy in respect to alcohol treatment referrals outside Yukon.**Mr. Speaker:** Are there any Reports of Standing or Special Committees?

Presentation of Petitions?

Reading and Receiving Petitions?

Introduction of Bills?

Notices of Motion for the Production of Papers?

Notices of Motion?

Are there any statements by Ministers?

**MINISTERIAL STATEMENTS****Hon. Mr. Graham:** Mr. Speaker, today it is my pleasure to announce to the House that the Kluane Tribal Brotherhood and the Government of the Yukon have signed a Memorandum of Agreement for the establishment of a school in Burwash Landing.

The discussions initiating this agreement began some months ago when representatives of the Territorial Government, the CYI, YNB, and the Kluane Tribal Brotherhood met together and agreed in principle that discussions could occur on an education issue, and any agreement reached would be non-prejudicial to the Land Claims Settlement.

This agreement meets with the departmental direction of parental involvement and reaffirms the strong role I feel parents must play in the education of their children.

This direction is not unique, Mr. Speaker, except in the format. In provincial jurisdictions it is practical, in most cases, to form school boards with fiscal responsibilities. Here, our small tax base makes this standard concept impractical in most areas, and yet, Mr. Speaker, parents must have meaningful involvement.

The Burwash people and Pelly people are to be commended for their drive and initiative. It appears to be accepted in our society that the Native Indian student dropout in school is a disturbingly higher rate than non-Indian students. It is my hope that with meaningful parental involvement, we will end this practice. Our Memorandum of Agreement specifies that the Kluane Tribal

Brotherhood Education Council will have the ability to select staff and programs for the school and in doing so, will be working with the Department of Education to ensure that staff and programs selected will meet the needs of the students of that school.

While practicality dictates that the majority of students of that school will be from Burwash, this school is established with the same attendance provision as any other school in Yukon. For example, the school is open to all students of any racial origin in the designated attendance area, and barring overcrowding, is also open to any other students.

It is the Department's intention to enter into special contracts with the Kluane Tribal Brotherhood to develop innovative curriculum materials for use in the Burwash school. These materials could be implemented in other schools in Yukon if it is so desired by the local school committees.

This Memorandum of Agreement is significant in that it illustrates a strong commitment on behalf of the Burwash people to plot the course of education for their children. While I am optimistic for its success, the parents of the Burwash children ultimately determine the success of this project.

Chief Joe Johnson, Mary Easterson and Daniel Johnson have had a particularly strong interest in the school in Burwash for some time, and I now want to publicly acknowledge their presence - they are not in the House, I am sorry Mr. Speaker. As soon as copies of the signed agreement are available, I will be tabling the Memorandum of Agreement for the information of all Members.

Thank you.

**Mr. MacKay:** Mr. Speaker, this announcement today is received, I would say, with undeserved pleasure by this side of the House. Plaudits must be shared equally between the Minister of Education and his Department and the parents of the children in Burwash. In practical terms it means the continuance of an experiment in parental involvement in Burwash. The beneficiaries are to be the children of Burwash.

In symbolic terms, Mr. Speaker, it means that the Territorial Government has shown a willingness to recognize parental control, to recognize cultural priorities of parents and to recognize the place that the Yukon native people have within our education system. And I say that the beneficiaries of that will be all of our children.

**Mr. Penikett:** I, too, just want to congratulate the Minister for concluding such an agreement. I think it is certainly a triumph for the progressive wing of the Progressive Conservative government and I hope we will see similar such initiatives in the coming months.**Mr. Speaker:** Are there any further statements by Ministers?

This then brings us to the Question Period. Have you any questions?

**QUESTION PERIOD****Question re: Chief Executive Officer of Government****Mr. MacKay:** My question is to the Government Leader with respect to recent constitutional changes. Can he tell the House who is the Chief Executive Officer of this Government?**Hon. Mr. Pearson:** It is very, very clear. The Commissioner of the Yukon Territory is the Chief Executive Officer of this Government. It says so in the Yukon Act.**Mr. MacKay:** And in the absence of the Commissioner, the Yukon Act is clear that the administrator is the Chief Executive Officer, I presume. Now the Administrator is legally responsible under the Yukon Act as we have heard, my question is then, is the Administrator involved in the decision-making process of this Government, other than by subsequent approval of action?**Hon. Mr. Pearson:** Mr. Speaker, the Commissioner or the Administrator take their directions from the Minister of Indian Affairs and Northern Development. Obviously, he must be satisfied at their involvement at all times. He has the legislative requirement to do so.**Mr. MacKay:** Would the Government Leader not agree, however, that the Administrator is in an impossible position in that he is legally responsible for the administration of the Territory, yet has been shorn of all the powers that the Minister had previously endowed on him?

**Hon. Mr. Pearson:** No, Mr. Speaker, I do not agree at all.

**Question re: Executive Council**

**Mr. Penikett:** Mr. Speaker, at noon today, most Members received a letter from the Administrator of the Yukon Territory, advising us of the swearing-in ceremony for Members of the new Executive Council.

I wonder if the Government Leader can tell us if there will be new members to this Executive of the Yukon Government, or whether there will be a new Executive to replace the old one, or exactly what will be transpiring on this October 22nd date?

**Hon. Mr. Pearson:** Mr. Speaker, I would like to retain the prerogative of a few surprises for next Monday and I think I shall do so.

**Mr. Penikett:** Thank you, Mr. Speaker. So that we will not be completely surprised, if we are to have a new Executive in the Territory, can we then expect that those nominees will be presented to this House for a vote, as was the tradition when the present Executive was appointed?

**Hon. Mr. Pearson:** Yes, Mr. Speaker, that is a requirement of the letters of instruction that the Commissioner has received.

**Mr. Penikett:** Thank you, Mr. Speaker. In that next Monday we are going to have a new Executive Council for the Yukon Territory, and given that no such Council presently exists, but we do have new instructions from the Commissioner, can we take it that at present there is no Executive Committee in law and no Executive Council and perhaps, therefore, no government?

**Hon. Mr. Pearson:** No, Mr. Speaker, the Executive Committee is still in existence, in law.

If, Mr. Speaker, we accept the fact that the Minister's letter is, in fact, law and I submit it is.

**Question re: Sales tax in Yukon**

**Mr. Byblow:** I, too, have a question for the Government Leader.

In light of this evolutionary nature of responsible government in the Territory, does this Government plan to, within their presently elected life, institute a sales tax in Yukon?

**Hon. Mr. Pearson:** No, Mr. Speaker, we are not planning to at the present time.

**Mr. Byblow:** On the same topic: if the eventual price of fully responsible government hung in the balance of sales tax implementation to ensure fiscal needs, does the Government feel they have a mandate to institute this tax.

**Hon. Mr. Pearson:** Mr. Speaker, that is a strictly hypothetical question that I am not prepared to answer at all.

**Mr. Byblow:** For the benefit of this House in assembling information on the topic would the Government Leader direct his ERPU staff to assemble data on the volume of retail sales in the Yukon.

**Mr. Speaker:** Order please. I find the question bordering on being out of order. It is not competent to give a direction other than by motions and other manners in the House but perhaps the Honourable Member was enquiring as to whether it would be the intention of a Minister to do something.

**Hon. Mr. Pearson:** I would be prepared to give consideration to asking our Economic Planning unit to compile this information if it has not been compiled yet.

**Question re: Raffles**

**Mr. Penikett:** I have a question for the Minister of Education, it concerns raffles. Mr. Speaker, I understand under the Criminal Code that raffle permits are usually authorized by the Attorney General to registered societies for charitable purposes. I would like to ask the Minister, did these rules which normally apply elsewhere apply in the case of the Snowmobile Club's \$80,000 house raffle.

**Hon. Mr. Graham:** May I take that question under advisement?

**Mr. Penikett:** Perhaps, Mr. Speaker, I could ask a supplementary, and the Minister may also wish to take it under advisement. In view of the large sums of money involved, did the Government establish, before the raffle licence was issued, the location and value of the prize offered?

**Hon. Mr. Graham:** When the licence was issued, the prize was stipulated as a home worth \$80,000. It stipulated no definite location of that home.

**Mr. Penikett:** I understand an extension of the licence was issued on the basis of \$60,000 worth of tickets having been sold. I would like to ask the Minister, has this money been placed in trust pending the outcome of the raffle?

**Hon. Mr. Graham:** Roughly \$40,000 which, as I understand it, is the number of tickets that have been sold, has been placed in trust and with the Government of Yukon.

**Question re: Agreements for sale**

**Mr. MacKay:** I have a question for the Minister of Municipal Affairs. Could the Minister outline the present policy with respect to cancelling agreements for sale due to non-performance on land? This is agreements for sale on land.

**Hon. Mr. Lang:** Mr. Speaker, I gather that the Honourable Member is referring to the various land sales that have taken place over the past year, in the area of residential lots.

Basically, what it is, Mr. Speaker, if an individual does not put X amount of dollars worth of improvements on that particular lot, the land will revert back to the Government and will go back up to public sale.

As I stated the other day in this House, I said the basic policy behind it is that we want to make land available to our citizens, but, at the same time, it has to be utilized, otherwise we are going to be in a situation that was experienced a number of years ago where a number of lots in one particular area were let out. Two or three people managed to acquire them and, subsequently, nothing was built on those pieces of property for a number of years. It also allowed them to sell the property at exorbitant prices, as opposed to what the actual market should have dictated if land had been made available.

Therefore, Mr. Speaker, there is good reason for the present policy that is in effect.

**Mr. MacKay:** Is the Minister aware that several cancellations have been issued recently in the McPherson subdivision?

**Hon. Mr. Lang:** It has not been brought to my attention, Mr. Speaker. Is the Honourable Member referring to the last week or so?

**Mr. MacKay:** I am referring to the last few months, Mr. Speaker. I would like the Minister to look into a particular one, if he would be agreeable to do this. It is where a house was built and a cancellation was issued when the only reason appeared to be that the painting was not completed around the window sills.

I am wondering if the Minister would care to look into that particular case?

**Hon. Mr. Lang:** Yes, Mr. Speaker.

**Question re: Licensing of Vehicles**

**Mr. Fleming:** Yes, Mr. Speaker, a question I think possibly to the Minister of Community Affairs, or possibly the Government Leader.

It is regarding licencing vehicles from outside the Territory after contracts have been awarded. Has this Government got any policy in effect that does cause people who have been awarded contracts and are driving vehicles, say, from British Columbia or Alberta and so forth, to license those vehicles in the Yukon Territory?

**Hon. Mr. Graham:** Can I get you to repeat the first part of that question, Mr. Speaker?

**Mr. Fleming:** If I may explain, a contractor bidding on a painting contract or some other type of contract in the Yukon Territory, and he comes in from British Columbia and the contract probably takes three or four months, what are the licensing requirements for him?

**Hon. Mr. Graham:** Mr. Speaker, whereas I realize this directive is not always carried out, he is required to have Yukon plates on vehicles which are being employed on the job in Yukon.

There is some problem over who enforces the legislation presently in effect. It is an area that we realize is of some concern, especially to smaller communities on the Highway. It is something that we are looking at.

**Mr. Fleming:** Mr. Speaker, does the Government have a time limit that he can operate in this Territory under his outside license?

**Hon. Mr. Graham:** I will have to take the question under advisement, Mr. Speaker.

**Question re: Dawson City Administrator's Report**

**Mr. Penikett:** Thank you, Mr. Speaker. I have a question to the Minister of Municipal Affairs, who has probably been feeling neglected the past few days.

In April, the Dawson City Administrator delivered his report to the Department of Municipal Affairs. In view of some of the continuing local government problems in Dawson, can the Minister

say whether the Government plans to act, in the near future, on any of the Administrator's recommendations?

**Hon. Mr. Lang:** Mr. Speaker, if any action is taken in respect to the recommendations, I will announce them in the Legislature.

**Mr. Penikett:** I would like to ask the Minister if active consideration is being given to the proposed special status for the creation of the city and district of Dawson City, as proposed by Mr. Oliver?

**Hon. Mr. Lang:** Mr. Speaker, all the recommendations by Mr. Oliver are presently under review. A lot of them, as the Member well knows, would directly reflect the budget and, subsequently, would have to be in the forthcoming Budget and would be discussed at that time.

**Question re: Vocational School Decentralization**

**Mr. Byblow:** I have a question for the Minister of Education.

An in-depth study and detailed cost analysis for the establishment of a vocational training centre in a community other than Whitehorse was completed just this past few months. On the strength of his Government's commitment to decentralize and other factors contained in that report, is his Government planning such a decentralized move?

**Hon. Mr. Graham:** Mr. Speaker, I just became aware of this report that was commissioned by the previous Assembly.

At this time, the Government is not considering a move of any vocational training facilities outside the City of Whitehorse.

**Mr. Byblow:** The study notes, Mr. Speaker, that only in communities such as mine, with the cooperation of the industrial concern, could be provided the field training requirement for vocational courses.

My inquiry is, to the Minister's knowledge, have there been any discussions between his Department and the vocational branch and the mines in the Territory towards a permanent arrangement for field training?

**Hon. Mr. Graham:** As I said, Mr. Speaker, I just became aware of this report. I believe also that the report states that it would be uneconomical to construct a vocational school facility in the City of Faro.

Consequently, Mr. Speaker, we are not considering it at this time. We are considering several other things, such as a mobile vocational school, several units. We are not, at the present time, carrying out discussions with anyone outside the City of Whitehorse to establish any training facilities.

**Mr. Byblow:** Mr. Speaker, I have one more question on the topic. Could the Minister indicate what the mechanics are to engage the Vocational School in community or municipally oriented projects, such as the physical expansion of an airport?

**Hon. Mr. Graham:** Yes, Mr. Speaker. Write us a letter.

**Hon. Mrs. McCall:** Mr. Speaker, I have an answer to a question asked by the Honourable Member from Whitehorse West, Mr. Penikett. This advertisement was meant as a reminder. The advertisement was placed in the Whitehorse Star without the approval or prior knowledge of the Health Department, and it is an admitted error on the part of the advertising agency who had to bear the cost of their error.

The history of it is that it is a periodic reminder-type advertisement, which are routinely placed by the Department. In this instance it was to highlight the following aspects of Health Care Plan operations: Carry your Medicare card when you visit your doctor. Notify the Plan if there have been changes in your address or dependents. Be sure you are registered. Be sure all your dependents are registered.

It was, and is intended, that both the press and TV media would be used, and Public Affairs were given the raw materials to produce a finished copy for Health Department approval before any advertisements were placed. A junior in the agency producing the copy inadvertently placed the ad in the Star sight-unseen by either the Public Affairs bureau or ourselves. Needless to say, the copy in that form was unacceptable. Unfortunately, the edition of the Star containing the ad had already been run before we were notified. The agency has been advised of our refusal to accept charges for the ad.

**Question re: Cultural Officer**

**Mr. Penikett:** Thank you, Mr. Speaker. I have another question for the Minister of Education. I would like to commend the Minister for the appointment of the Cultural Officer to his Departmental staff and ask if the Minister could briefly describe this person's responsibilities within his Ministry?

**Hon. Mr. Graham:** Mr. Speaker, this person will look after cultural affairs much the same as the recreation consultant has looked after recreation affairs in the Territory. They will travel throughout the Territory, both the Recreation and Cultural Affairs persons, and, generally, liaise with all community associations and anyone else who happens to be interested in either field of recreation or cultural affairs. The attempt is to bring the Department a little closer to the people who are using our facilities.

**Question re: Yukon Show**

**Mr. Penikett:** Mr. Speaker, I would also like to commend all those responsible for the Yukon Show for their success, but I am wondering if the Minister can tell us if, to his knowledge, any Yukon writers were offered the commission for this play?

**Hon. Mr. Graham:** Mr. Speaker, this is somewhat of a problem. There were no Yukon writers at the time requested for a bid to write this play. We were operating under severe time restraints at the time, and we were informed by a couple of executives of cultural organizations in Yukon that, in their opinion, no one in Yukon would have been able to write the play in that short a time period.

**Mr. Penikett:** Mr. Speaker, I feel bound to advise the Minister that there are two published playwrights right in this House, and I can assure him that there are many others in the Territory. I would like to ask the Minister if he would give his assurance that Yukon artists and writers will in future be considered for any commissions to create art works financed by this Government?

**Hon. Mr. Graham:** Yes, Mr. Speaker, we will for those that are financed by this Government.

**Question re: Burwash Indian School**

**Mr. MacKay:** Yes, Mr. Speaker, it is the Minister of Education's day today.

Can he advise this House as to what resources are available to his Government to pursue the special curricular material that he agreed to pursue with the Burwash Indian School?

**Hon. Mr. Graham:** Thank you, Mr. Speaker. Yes, I will.

At the present time, the Department is attempting to develop relevant Yukon curriculum material for schools throughout the Territory.

We have a certain amount of funds available in the Budget for curriculum development. There will be more in the future and I am very happy to see, Mr. Speaker, Members opposite so interested in this area.

We also have some funds available for teachers who are interested in developing subjects for their students. All of those funds will be used over the next few years.

**Mr. MacKay:** Mr. Speaker, my concern for this question was motivated by the small amount budgeted for the 1979-80 year in curriculum development. I am wondering if the Minister of Education will assure the House that if necessary to implement this agreement with Burwash, that he will go ahead in excess of that budgeted amount?

**Hon. Mr. Graham:** I surely will, Mr. Speaker, but let me assure the Member opposite that the Department also has lapsing funds in a couple of other areas and we will attempt to use those funds in the area of curriculum development.

**Question re: Vocational Courses for Women**

**Mr. Penikett:** Thank you, Mr. Speaker, I have another question for the Minister of Education.

This April, the Minister announced a six week pre-trades training course for women in the Yukon Vocational and Training Centre. Is the Minister prepared to report to the House soon on the success of this experimental program?

**Hon. Mr. Graham:** Mr. Speaker, I am very sorry to inform the House that there was no success on this experiment, due to the fact that there were insufficient numbers of people applying. There were various other problems, but the basic problem was that there were not enough people who applied.

**Mr. Penikett:** Thank you, Mr. Speaker. Is it the Minister's intention to attempt a repeat of this experiment sometime in the future?

**Hon. Mr. Graham:** Yes, Mr. Speaker, it is.

**Question re: Small Business Loans**

**Mr. Byblow:** Unfortunately, I have a question for the Government Leader, in his capacity as Minister of Consumer and Corporate Affairs.

Inquiries of mine on behalf of constituents regarding small business loans reveal that this program is under review and therefore any funding applications are in suspension.

Is this still the case?

**Hon. Mr. Pearson:** Mr. Speaker, I am not the Minister of Consumer and Corporate Affairs. I think the Minister should properly answer the question.

**Hon. Mr. Graham:** Yes, Mr. Speaker, the program is still under review and I do not believe there has been any applications, but any applications that were received under that program would be held in suspension.

**Mr. Byblow:** Mr. Speaker, my apologies for the incorrect address of the question.

I believe, for the Minister's edification, there are a number of applications that have been submitted in the last several months.

In the Government Leader's address to the Assembly last Tuesday, there was the announcement that the small business development fund program would be modified. I would like to inquire of the Minister when the business community can expect some announcement with respect to continuation or modification of this program?

**Hon. Mr. Graham:** This is part of the items that are being negotiated under the General Development Agreement. I am sorry, I just do not have a timetable.

**Question re: Vietnamese Refugee Funding**

**Mr. Penikett:** I have a question for the Minister of Human Resources. On July 27, the Minister announced financial assistance for Vietnamese refugees to a maximum of \$50,000. Can the Minister tell the House from where in her budget these funds came?

**Hon. Mrs. McCall:** I think I am permitted to tell you that they came from Supplementary Estimates, and still are coming.

**Mr. Penikett:** To this date can the Minister say how much of the \$50,000 allocation has been spent?

**Hon. Mrs. McCall:** No, Mr. Speaker. I cannot give an exact sum. Possibly — no, I am afraid I cannot. I will take it under advisement.

**Mr. Penikett:** The Minister's release stated that the Government will match each dollar raised by Yukon Lifeline should the Vietnamese refugees prove readily adaptable to the Yukon community. Has the Minister considered how any surpluses accumulated by Yukon Lifeline may be disposed and if, in such an event, would she consider requested that such surplus be donated to some other worthy Yukon charity.

**Hon. Mrs. McCall:** I have not given it any consideration at that point. I imagine that the money will be used for the purpose intended.

**Question re: YTG Land Ownership**

**Mrs. McGuire:** This question is for the Minister of Municipal and Community Affairs. Can an individual obtain information pertaining to YTG land ownership or lease upon request?

**Hon. Mr. Lang:** I do not quite understand the question. Could the Honourable Member please elaborate?

**Mrs. McGuire:** I am wondering if we could go to the Lands Office and find out who owns a piece of land in the Territorial Land Sales.

**Hon. Mr. Lang:** Yes, it is all public information.

**Mrs. McGuire:** Then you are saying that all land ownership or leases are open to public inspections.

**Hon. Mr. Lang:** My understanding is that that is correct, I believe, that one can do a search in the Lands Titles Office.

**Question re: Executive Committee Information Officer**

**Mr. MacKay:** I have a question for the Government Leader. Recently an information officer was reassigned his duties to act as an Information Officer for Executive Committee. Could the House be given a brief explanation of this gentleman's duties?

**Mr. Speaker:** Perhaps this could be very brief. These explanations have a tendency to get rather lengthy and the question, if it could be more specific, would be appreciated by the Chair.

**Hon. Mr. Pearson:** It has been deemed advisable to specifically assign one of the information officers to the Executive Committee, primarily to ensure that the public is being made aware of what is happening in the executive wing of the government. Hopefully, it will prove to be the answer to a number of complaints that we have received, that the public is not being advised of what we are doing and this will work.

**Mr. MacKay:** Could the Government Leader explain if any of his duties will include giving politically motivated advice on the handling of media relations to the Members of the Executive Committee?

**Hon. Mr. Pearson:** Mr. Speaker, this is a Public Service appointment, it is not a political appointment.

**Mr. Penikett:** Mr. Speaker, the Government Leader just explained that this person was going to be employed to make the public aware of what is going on in the Executive Committee.

I wonder if the Government Leader would be prepared to allow the Opposition to avail themselves of the same service?

**Hon. Mr. Pearson:** By all means, Mr. Speaker.

**Question re: Plumbing Protection Ordinance**

**Mr. Penikett:** Mr. Speaker, on March 27th, I reminded the Minister of Municipal Affairs of a petition from the contractors and tradespeople for a Plumbing Protection Ordinance. Can the Minister say if such legislation is now in the works?

**Hon. Mr. Lang:** No, Mr. Speaker. I had a telephone conversation, if my memory serves me correctly, some time ago, in respect to the individuals involved in that particular area. They have not got back to me since then.

**Mr. Speaker:** This would then bring us to the end of the Question Period.

We will proceed on the Order Paper to Government Bills and Orders.

#### ORDERS OF THE DAY

##### Bill 26: Second reading

**Mr. Clerk:** Second reading, Bill Number 26, standing in the name of the Honourable Mr. Lang.

**Hon. Mr. Lang:** Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse South Centre, that Bill Number 26, An Ordinance to Amend the Taxation Ordinance, be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Municipal and Community Affairs, seconded by the Honourable Member from Whitehorse South Centre, that Bill Number 26 be now read a second time.

**Hon. Mr. Lang:** Mr. Speaker, the changes in the Taxation Ordinance are major revisions to the past Legislation. You will note in the Bill we have clearly delineated the difference between assessment and the method of taxation.

It is of the utmost importance that the public recognizes this difference. Assessment will calculate the value of land or improvements and will be the total responsibility of the Government of Yukon.

Taxation will be the responsibility of the established municipality for taxing authority.

Land will be assessed at fair value and will be determined by delineated criteria, while improvements will be calculated at Whitehorse replacement costs, with the concept of a current assessment rather than the previous method of updating assessments every five years.

There are provisions in the legislation giving direction to the assessor not to take into account fencing, sidewalks, driveways and general beautification of residential properties. This will allow the individual homeowner to fix up his property without threat of increased taxation.

We have also streamlined our appeals procedure and allow a final appeal to the Supreme Court a court of appeal, only on a question of law.

A major revision in the method of assessment has been to take into consideration single family residences which have been zoned into another classification of property. In order to protect long-term Yukoners, the Bill ensures that their property will be assessed as single family residential, so long as they are using that property for that particular purpose.

In order that various taxing authorities can continue their everyday business, assessment appeals will no longer be able to hold up the acceptance of the tax roll. A taxing authority may now use their tax roll, once authenticated, by the first appeal jurisdiction in Assessment Review Board.

The Bill gives the authority to the assessor to amalgamate contiguous properties or split them and this will help ensure an equitable assessment. An example that comes to mind is Mayo where, in many cases, lots are surveyed in thirty foot frontages. From now on, these lots will be amalgamated for taxation purposes. Presently this is the practice, but it is done by Regulation.

The timeframe for assessment in finalization of the roll has been

lengthened so that a full assessment can be done of all new buildings. In the past, the early cutoff date caused many buildings which were completed late in the fall to be exempt from taxation.

The new timeframe will permit the assessment of progressive construction and will ensure that everyone contributes their fair share to the taxing authority.

In the 1980 tax year, the new method of assessment will apply in full to the following communities: Whitehorse, Watson Lake, Haines Junction, Faro and Dawson City. In all other areas, property improvements will be reflected in this new method of replacement assessment in 1980.

It is our intention to have land values in these areas assessed at fair value within the next two years.

It is important for the public to realize that the assessment notices will more realistically show the worth of the property and the taxation levied by the taxing authority will dictate what they pay.

Mr. Speaker, I have been speaking to the method of assessment and I would now like to turn my attention to the taxation provisions incorporated in the Bill.

The Bill contains provisions to broaden the taxing flexibility of the taxing authorities. It contains provision to fluctuate their tax levy by class of property, as well as by region.

This will allow municipalities, as well as the government, in areas where taxation is their responsibility to vary their tax levy.

In order for the taxpayer to understand his tax notice, we are recommending that the taxation rate be expressed in percentages, rather than in mills.

Members will recall that the Yukon Property Taxation Review Committee recommended that in consideration of the importance of retaining citizen participation in all school matters, that the practice of levying school tax and property should be continued.

It is our recommendation to the House that we will continue the school tax. As in you know, in the past year we collected \$1.7 million from this source of revenue and, if we were to discontinue it, we would have to raise the money from some other source.

In the past, this levy has been very subjective and it is our intention to tie our school tax levy as a percentage of our overall education budget requirement. Details of this policy will be announced during the forthcoming Budget Session.

We feel this is important, as the public will be able to relate their individual school tax notice directly to the cost of administering education in Yukon. This type of policy will ensure direct responsibility and accountability of our Education Department to the public and, at the same time, it will ensure realistic demands by the public for services rendered in this all-important area of government responsibility.

The Bill proposes to keep statutory exemptions to a minimum. These exemptions include Crown, municipal and L.I.D. properties, cemeteries and churches.

We have extended the statutory taxation exemption to allow religious organizations that are providing a community service to be exempt. An example would be the Salvation Army. Any other property relief would be provided by the taxing authority.

In conclusion, Mr. Speaker, the Bill that is before this House is the product of many hours of work. It has been prepared in full consultation with the Association of Yukon Communities and has received full public participation through the Property Taxation Review Committee.

The proposed Bill will create equity in our assessments and, just as importantly, will give the necessary taxing flexibility to our municipalities.

Mr. Speaker, I think I can speak for all Members when we discuss taxation and say it is a no-win game. At the same time, there are basic services which must be paid for and it is the intention of this side of the House to keep property taxation down to an absolute minimum.

Thank you.

**Mr. Penikett:** The last great thinker among British Conservatives, Edmund Burke, who, I point out, lived quite a long time ago, once observed of American taxation that "to tax and to please no more than to love and to be wise is not given to men" and I want to say quite honestly and sincerely, that I would not want to have the job of the Minister of Municipal Affairs today for love nor money.

Two years ago, I was elected to City Council of Whitehorse on a

platform of Property Tax Reform and I certainly hope we do not take too long with this Bill, because I only have two months left in my term.

Last December 14, I made my maiden speech in this House on a resolution requesting a special session for the purposes of amending the Taxation Ordinance. The Motion passed unanimously but the Minister, in his wisdom, took his time about presenting the amendments. Instead of asking his very competent officials to immediately rewrite the law according to the recommendations of the Miller Committee, he hired to members of that body to draft a new ordinance.

Well, as they say, better late than never, I suppose, even though I think it is unfortunate the injustices of the old assessment had to continue for another year.

I want to say at the outset, and the Minister will be pleased to hear this, it is not a bad deal. I have some minor concerns with it and I will address these in Committee, some of them, if I may be persuaded later, will become major concerns, but these things are all relative in debate in the House.

The big issue remaining, of course, is the question of school taxes and the reasons the Minister cited, in fact I think he was quoting the Miller report, for their continuation is frankly ridiculous.

I think it is worth pointing out that school taxes were created to fund school boards in those areas of the country where municipalities ran the schools. That is not the case in Yukon. I would say right now to the Minister of Education that it is probably a good thing.

In a sense, this Legislature is the Yukon School Board and the Minister of Education is its chairman, if you like. It is our job to raise the money needed for education from Territorial tax revenues. We should not be bleeding the long suffering municipal property taxpayer for this purpose.

In principle, I believe municipalities are too dependent on this unfair form of taxation. The Property Tax system is a satisfactory way to pay for services to a property; combined with license fees and user charges, it makes up a reasonably efficient and equitable way of financing most municipal services. However, I think there are some universal "people" services such as health, education and some forms of recreation that ought to be supported by the more progressive forms of taxation available to senior governments.

I believe the Yukon Government should vacate the municipal tax field completely by taking away school taxes, by financing education from Territorial revenues. The Yukon Government should continue in future to include public recreation facilities in new schools where possible to reduce waste and duplication by municipal and territorial governments while at the same time reducing the load on local property taxpayers.

As a result of the new assessments of land to 1976 value, property owners in the Whitehorse area saw in that year a radical shift in the weight of taxation from improvements to land. On one hand, a large number of residents received a smaller tax bill than the year before. On the other hand, some owners of country residential property, for example, were shocked by assessments which were many times higher than the price they had paid for their land a year earlier. As the Minister knows, to some senior citizens in downtown Whitehorse the property tax system suddenly became a device to force them from their homes. For all of these citizens the system was confusing. Many questioned the assessment procedure, the city's budget, the mill rate, and even the competence of those who administered these instruments. These concerns must be put to rest by this legislation, but some of the confusion will continue unless school taxes are abolished.

The Economist Michael Bradfield once said in his book entitled *Tax Reform in Canada*, "The basic goals of the tax system are to raise revenues with efficiency and with as little complexity as possible and to promote, in the case of income taxes, a more equal distribution of income and wealth in society. The basic principle of taxation is that the system be equitable so that those with similar ability to pay do, in fact, pay similar amounts for taxes, and those with a greater ability to pay do, in fact, pay proportionately more tax than those with less ability to pay. Thus, in a tax system the basic source of revenues for the largest expenditures of government must be progressive. The tax system in Canada..." as I have said in this House before, leaves a lot to be desired, and the whole system is made even more unfair if there is an excessive dependency on progressive taxes like property taxation.

I think it is for this reason that property taxes should be used only basically to provide for hard municipal services and not universal



services which should be supported where the jurisdiction is by the senior governments.

I think the school tax system in Yukon is even a much worse situation than it is in most other places. It is inefficient; it is regressive; and, in fact, it violates the very principle, I could say to the Minister, that caused the American Revolution. That is, no taxation without representation. Now the Minister made some reference to people losing their voice in the school system. Municipal taxpayers have no voice in the school system. This House sets the school policy. This House runs the schools. This House administers the things and this House, this Government, should be raising the taxes to pay for them; not the cities and municipalities which have no say in their operation whatsoever.

Municipal taxation ought to be simple, rational, fair, and functional. The public does not appear to believe that the present arrangement qualifies according to any of these standards. It is often argued that local governments are better because they operate closer to the people. There is little separation between their taxing and spending decisions.

The local citizens voting directly or indirectly for increases in the budget know full well that the funds must come from increased taxes which they, the citizen, must bear.

For them, it is almost impossible to remain unaware of the necessary link between the two sides of the local government's budget. This is not so much the case at either the Territorial or the Federal level.

One of the tests used for the effectiveness of local government are the questions: What does it provide for people, and what does it cost people?

North American cities have experienced enormous growth in the period since the Second World War. Some cities, like Winnipeg, have developed to the point where a single major city tends to dominate the entire region.

This is also true of Whitehorse with its relationship to the rest of Yukon. Not only is it a Capital city and a transportation centre, but it also includes sixty per cent plus of the Territory's population within its boundaries.

Unlike a private business, the corporation of the City of Whitehorse can only carry out those activities which it is expressly permitted to carry out in the ordinances of the Yukon Territory from which it derives authority.

It is important to be ever mindful of the fact that all local governments derive their authority from the more senior governments, especially because it is common for the interests of large urban centres to be under-represented in the provincial legislatures in North America.

This is the case in Yukon and we all understand the reasons for it. Here we live in a place where two-thirds of the population live in the City of Whitehorse, but the City of Whitehorse has less than half the seats in the Legislative Assembly of the Yukon Territory.

The Yukon Government, like other senior governments across North America, limits the financial powers and exercises close supervision for financial management of municipal governments. The relationship between the capital city, especially one that dominates the region, and the senior territorial or provincial government, is a very complicated and delicate one.

It will always be the concern, not only here but in all parts of North America, and it is sometimes felt, I think, that state and provincial governments have often been insensitive to the special needs of the large cities, particularly the capital cities. I am sure you will hear many municipal politicians from Vancouver and Toronto and so forth make this point.

Many large cities have serious financial problems. One of the problems they have got into is because they have increasingly had to provide services which are normally services provided by senior governments and they have had to fund those services from property tax revenues.

One of the major contributing factors of the serious problem which New York experienced some years ago was the fact that they were not only operating schools from property tax revenues, but, in fact, universities. At some point, when the economy started to turn down, it produced an absolute crisis.

It is arguable that Whitehorse is unique in the Yukon scene and that territorial legislation perhaps ought to reflect the demands of its Capital City.

Perhaps, and I have made this point before, but I think it is probably a good argument for the Territory to have a separate charter for Whitehorse, in that it is so large relative to other com-

munities and that it is the Capital City.

I submit, Mr. Speaker, the Territory ought to listen with great care to the City of Whitehorse on subjects like school taxes.

As we all know, general property and school taxes are determined by dividing the amount of the levy by the total value of taxable property assessments, with adjustments for delinquencies anticipated. The rate is expressed in terms of numbers of mills, it may soon be percentages, per dollar, or the number of tax dollars per thousand of assessed value.

When the rate has been determined, it is then multiplied by the assessed value of each taxable property in the district to determine the amount of tax to be collected on each parcel. Bills reflecting the tax assessment, rate, liability and terms of payment, dates, discount and penalty rate then will be sent to the owner on record by the tax collector.

Traditionally, the tax has been collected on one annual payment after this assessment, although many jurisdictions now use quarterly or semi-annual installments.

It is a political fact of life that real property tax is local and highly visible and that those who set the tax rate, city council members, must run for election every two years. Except on school taxes, the average citizen therefore has a practical means for wielding far more influence on local property tax than he or she can on the more remote processes that go into the adoption and administration of sales, excise, and income tax levies by provincial or federal governments.

Property taxes are based on only one element of wealth and, as such, are a very imperfect measure of anything except the relative proportion of a use tax for municipal services of a hard nature, such as roads, sewer, water and protection against crime and fire.

In principle, extra municipal services such as education, health and welfare, should not be paid for on the basis of real estate ownership or property taxes. To do so makes a mockery of any sense of fairness or equity. All territories and provinces now exercise considerable control over education policy and, in Yukon, the control is absolute.

The municipalities have no say whatsoever in education policy. Therefore, local governments should not be responsible for financing even part of the system.

For a number of years now, Manitoba has been moving towards transferring the costs of those services being paid for by property taxes to other forms of taxation. They have taken the position that services to property, which will probably enhance the value of their property, should be paid for by taxes on that property, while services to people, health and education for example, should be paid for by other forms of taxation.

Education expenditures, it must be remembered, have the potential to distort the overall patterns of local governments' spending, simply because of their massive weight within these totals.

Note, for example, the percentage of the total budget that school taxes represent in the City of Whitehorse. Yet this expenditure does not even begin to meet the costs of operating the school system within the City.

It is logical and economical and fair that the Territory should operate and fully fund Yukon's education system. Local governments spend money on goods and services for the presumed benefit of the residents. Of course, unless the local residents can expect to secure some real benefits, they can neither be expected to pay taxes, nor support the public officials who levy them.

Local Governments exist primarily because they provide a relatively more efficient means of providing services, such fire protection, traffic control and so forth, than do the private alternatives.

These exist particularly in circumstances where it is impossible to practicably exclude anybody from enjoying these benefits.

Mr. Speaker, on March 27th, 1978, Whitehorse City Council passed a resolution which said: "RESOLVED THAT whereas property taxes were originally designed to pay for services to properties such as sewer, water and roads, rather than services to people, such as education;

"AND WHEREAS municipalities have no voice in Yukon's education policies although required by law to collect school taxes on behalf of the Yukon Government;

"AND WHEREAS the school taxes collected by the municipalities only need a fraction of the education costs in the municipalities;

"AND WHEREAS some of the provinces in Canada are progressively removing the burden of school taxes from municipalities;



"BE IT RESOLVED that the Association of Yukon Municipalities be asked to request the Yukon Government to amend the appropriate ordinances so that the municipalities are no longer required to collect school taxes from the property owners within the municipalities".

Mr. Speaker, I think you will find the Association of Yukon Municipalities and other municipalities in the Territory have done exactly that.

Since that time, the Association of Yukon Communities, the City of Whitehorse, and I believe other bodies, have reaffirmed this position. The Miller Committee reported that "a number of presentations were made, both in written and verbal forms, supporting the abolition of school tax on property and a number of sound reasons were advanced in support of this proposal".

For reasons that still remain totally unclear to me, the Miller Committee recommended something different.

I beg this Government to let the municipalities get out of the school tax business.

I would urge them to consider the following: reduce the present ten mill rate by a mill or two a year until this tax is no more. By this means alone, we ultimately could reduce property taxes in Whitehorse by one-third. One-third, think of it. In one fell swoop, the Minister could achieve that, which according to Burke, was impossible. He could become both loved and wise.

Mr. Speaker, this Bill is almost good. Why not go all the way and make it something the Minister and this Government can be truly proud of.

Thank you, Mr. Speaker.

**Mr. Speaker:** Is there any further debate?

**Mr. MacKay:** Thank you, Mr. Speaker.

I am afraid the build-up to this debate is going to be somewhat greater than the actual debate itself because I, too, do not have an awful lot of problems with the Bill. There are some elements of it which I am not happy with; however, the main thrust of the Bill seems to be heading in the right direction.

So, I would like to address some of these points that I am not happy with, and a couple that I am happy with so that we can proceed with the Second Reading.

I think my major concern is the appeal procedure, Mr. Speaker. What is being instituted as being a two-level system of appeal whereby there is an assessment review board, followed by an assessment appeal board.

These boards, apparently, will be set up by Order of the Commissioner, which of course now is the Executive Committee, or Executive Council, I guess it will be next week.

My concern is that no where in the Act before us is there any provision for the composition of that board. In other words, what we are looking at is two boards which may very well be composed by laymen, with no previous experience in the art of assessment or taxation.

Then, to give these boards the powers they have, which include the power of subpoena, and to make them the final arbitrators of value, allowing only an appeal on a point of law to the Supreme Court, I think is placing far too much faith in the ability of the ordinary guy on the street to comprehend the complexities of a taxation system.

I think there are a number of things that can come forward from that.

I think that laymen sitting on a board may very well find themselves falling under the influence of the chief assessor, because he happens to be the expert. He is the one who is knowledgeable, he is the one whose department has done all of this work and, therefore, is in a very defensive position. He is going to make sure that nothing comes out of it that is wrong because it is a reflection on him.

So, that particular assessor, I do not mean any particular person, I am just talking about the kind of job that this man has to do, will be in attendance at these hearings and will naturally defend his position. If he does it with the use of any jargon or any technical expertise, using words that perhaps the taxpayer is not familiar with, very soon he is going to give the impression, I think, to laymen on that board, that he knows exactly what he is talking about and the taxpayer does not. So, I think that is one of the outcomes you may find. All this would not be so bad if there was an avenue of appeal, but there is none.

The question of value is probably, 95 per cent of the time, the only

reason for appeal to these boards. So, allowing for a question of law here to appeal to a court really is not a significant section, because the vast majority of people who would be appearing before these boards are there because they do not agree with the value.

I think there is also a danger that certain classes of the taxpayers may find themselves at a disadvantage in front of these boards, because a powerful group of taxpayers can easily band together if they are of a particular grievance, and it has been done before, could easily band together, hire their own expert, produce their own evidence, produce their own technical jargon before the board and serve as a counterbalance to the assessor and they may very well win their case because they have the power and the dollars to back it up.

I would be afraid that the ordinary householder, living on the outskirts of town, trying to fight off what he feels is a real injustice is going to be alone in front of that board and will not have that kind of backing and expertise. So, you may have a built-in imbalance in our system of equity.

I think that one of the ways of correcting this, Mr. Speaker, might be to include in the description of these boards, at least one person with some legal training, perhaps one person with some kind of assessing qualifications, so that there is some level of expertise, of professionalism involved in this board of laymen, alternatively, to go the full route in allowing appeal to the courts. It is interesting to note that appeals to the courts have, in fact, produced quite different results from that of the assessor and the appeal boards presently in place, have allowed to stand. So the courts, in fact, have had an influence upon the final results.

Now, we are cutting out that influence and I am very concerned that we are going to be doing a disservice to the little guy with no money and not very much technical expertise, but a feeling in his bones that he is being treated badly and he may not be able to get justice.

The business of setting up Whitehorse as the arbiter for value throughout the Territory, means in other words, the building costs of Whitehorse will become the standard for assessments throughout the Territory. I am a little concerned about that, not because I do not think that is good measure, a way to try and measure it, but I have some difficulty seeing how we can accumulate all the data in Whitehorse that is reasonably free of bias and of distortions that may arise from a few large projects that may occur.

For example, if the building costs in this City had been judged the year that this building here was built, some \$10,000,000 building at a cost of perhaps \$150 a square foot, if that had been put into the equation in that year then you would have a significantly higher figure being produced for building costs in Whitehorse than was actually current at that time. So I think that you are starting out with a very small data base and that previously the use of an Edmonton group with an add-on for the generally accepted difference in building costs between here and Edmonton, would perhaps have served just as well and given us a more reliable base to work from.

In the course of going through the Bill there are some areas that are of concern to me, one of which is in the Preamble. It was said that improvements less depreciation would be the manner in which improvements would be assessed. In reading the Bill I have some difficulty seeing where depreciation comes in. It does not seem to be mentioned and I would appreciate some elucidation, probably from the Assessor or the Minister himself on that point.

Another area of concern is the apparently legitimization of taxation of squatters. What the Bill seems to be doing is saying we will tax the improvements that a squatter creates on land. We will not tax the land but we will tax the improvements, certainly motivated to try and make sure that a squatter does not get a completely free ride, vis a vis the rest of the taxpayers. However, it may well be legitimizing the whole process of squatting, and so, that squatter's rights when he appears before the court and says well I have been paying property taxes for ten years, you cannot take away my improvements now. You may very well be running into a situation where you are entrenching squatters and I do not think that is a very good thing for any municipality to have to deal with or any government. They should be trying to produce a fairness in a situation, especially now when more land is available, a situation where everybody is paying their way.

Another concern in the principle of the Bill is the situation where rates will be allowed to be varied by the municipality within certain zoning. First of all, the purity of a taxation system should be the dollar is a dollar. I think my friend to the left referred to that in discussing income tax, and it seems strange to me that a dollar's worth of improvements in Porter Creek would be taxed perhaps at

a different rate than a dollar's worth of improvements in downtown.

Why should we have that distinction, because a dollar is a dollar. If a house cost \$50,000 to build and a commercial building cost \$2,000,000 to build it seems to me they should be applied the same rate of taxation and I do not really see why we have to have this variety of zones.

I know what is being attempted to do is to try and allow the municipality to direct development in certain areas. I am sure that is the motivation behind that section, but it takes away from this government level the ability to be able to try direct development at a territorial level. I think that if you find that in a municipality that the municipal government is against, say commercial development, then they will hammer that zone, they will really load up that zone commercially and you will say it is much easier for us to tax this small group of people and raise large revenues than it is to go to the taxpayers, who are voters, and raise the revenues there, and so you have produced what I think are political distortions in what should essentially be a very fair and pure tax scheme.

Given my disagreement with that, I still feel that the exemption that is being permitted for single family dwelling for areas of nonconforming use, I think that is the right way to put it, is the spirit because in any town that is growing rapidly, there are going to people left stranded downtown, and we find it is more and more often older residents of the city, who have paid taxes for 25 years, and who are suddenly being shoved aside by brand new development for reasons that they have no control over. So I am supportive of that particular distortion of the purity of the taxation system, but I think that overall distortion being permitted by zonings within the municipality is quite dangerous.

The final point I would like to talk about, and this is more in favour of the Ordinance than against it, is in respect to the School Tax. I think that for all my friend's to the left speech, one essential point that was left out of all of that is that, if you do not raise the school tax as a school tax, where are you going to raise the money? It would be nice to reduce the property taxes by one-third but the point is that somebody is going to have to pay for that somewhere else, so you have to look at what alternatives are available, Mr. Speaker.

The alternatives are essentially sales tax and income tax. The sales tax is also a regressive tax in that takes from the poor an equal dollar as it does from the rich for every item that you buy and so it does not mean anything better than what we have with the school tax.

Our income tax system in Canada is weighted already in favour of the family man and so if you put more weight onto the income tax for school taxes, the person who is really going to paying that is the single man, the single taxpayer. So you are not producing any more equity by putting it onto income tax. So you look at who is paying the school tax? The school tax is being paid by the people who live in the Territory, and if they are not a property owner, they are renting property, and if they are renting property they are paying, included in that rent, a proportion that goes to property taxes. So everybody is paying school taxes and if you think, as I do, that children are a universal a good thing, then everybody should pay for them and everybody should pay for their education, because, in the end, they are the next generation of taxpayers who will be paying my pension and yours.

I think that concludes the points that I had on it. I would like to reiterate that I think that the Bill is going in the right direction. I look forward, in Committee, to hearing from the Minister that he has done his homework with respect to the effect upon the change in balance between land and buildings, that he can produce for us some idea of what this will mean to various zoning situations, particularly within the City of Whitehorse. I have had his assurance that this will be coming so I look forward to seeing that. I will be supporting this Bill, Mr. Speaker.

**Mr. Speaker:** Any further debate?

**Hon. Mr. Graham:** Thank you, Mr. Speaker. I feel committed to say a few words about school tax seeing that it is an area of some concern to me. I think that when you consider the alternatives, as the Honourable Leader of the Opposition said, school tax is not such a bad thing. First of all, I think that there are a few things that I should straighten out. We, in the Legislative Assembly, are not the real school committee for the Yukon. The education budget has in it, besides the statutory requirements under the School Ordinance a very large number of items considered very important by the Education Council and school committees throughout the Yukon.

I think the Honourable Member's concern over the City's re-

quirement, by law, to collect school taxes is quite misplaced, Mr. Speaker. The City of Whitehorse acts only as middleman between the YTG and the property taxpayer. They have no requirements under this Ordinance or under any previous ordinance other than that.

I agree that if the school tax were removed tomorrow, Mr. Speaker, our taxes in the City of Whitehorse and other municipalities would probably be reduced. However, again as the Honourable Member opposite said, the \$1.7 million presently raised by school taxes in the Territory would have to be raised elsewhere, or else that \$1.7 million would have to be cut from the present YTG budget. This translates, Mr. Speaker, into an increase roughly in income taxes of approximately twelve per cent or a sales tax, and there we have that terrible, terrible word, of as yet an unknown percentage, or an increase, using other analogies, of roughly thirty-five per cent in the liquor tax which might not be such a bad idea. Or else, again you get back to the same point, there has to be \$1.7 million cut from either services presently offered to the people of the Territory or in government employees, or something to that effect.

I do look forward though, Mr. Speaker, to hearing more concrete examples of exactly how and where we can eliminate the school tax, and yet, after eliminating the school tax, maintaining the present level of services within YTG and within our schools with no increase in any other area of taxation in the present YTG budget. When I am convinced that this can be accomplished, I will be the first to acknowledge that the school tax should be abolished.

Thank you, Mr. Speaker.

**Mr. Byblow:** Mr. Speaker, I do not think that I can add too much of any exceptional observation to the commentary that has gone on in this House over this past year on the principle of this Bill. I think it should be noted that the Minister's Department set up a fairly active consulting process with the Association of Yukon Communities, and the input into this tax reform has been noted in the Bill.

I believe they have a number of concerns that are not in the Bill, as have a number of people noted in the Opposition, as the council from my municipality have noted as well.

Some of these things relate to things like market value in the absence of market, like the problem with dates of budgeting in light of the new assessment review deadlines and assessment tax roll.

There is another concern that perhaps this House should, when it resolves into Committee, have a person appear as witness to clarify some of the complexities. This is quite a monumental piece of legislation. I do not completely understand it and I am sure we are all going to have some difficulty with that.

Again, these various concerns have been articulated fairly well. I think I will be bringing a number of others up in Committee.

I am forced to comment on the school tax with a point that has not been made, with respect to the debate that has gone on. I am wondering if consideration has been given to the withdrawal of the school tax and what effect that has on the mechanism that people are trying to set in place with respect to school committees.

In other words, in the absence of fiscal responsibility, can you get full accountability in the decision-making process within the communities that we are trying to set in place?

I have a concern, Mr. Speaker, that perhaps deviates from the principle of this Bill, yet is related to it, that I would like to express here for the benefit of the Government and Yukon taxpayers and constituents alike across the Territory. We received this document four or five days ago and, with respect to receiving input from my constituency on specifics on that legislation, I am having difficulty.

They are in the process of review and, while we are in the process of Committee, I may not be able to bring up very valid concerns. So, perhaps I could be taken into consideration in respect to all the bills.

Again, as repeated by others, I will be supporting this Bill because I believe it is a tax reform that has been long sought. I have no disagreement in principle. I have some concerns specifically, which I will be bringing up in Committee.

**Mr. Speaker:** Is there any further debate?

**Dr. Hibberd:** Mr. Speaker, I would like to add my voice to the commendation to the Minister for bringing this Bill forward. We all know this has been the major area of concern through a Territorial election. Most of those concerns, I think, have been answered in what this Bill possesses.

There is one particular concern that I would like to mention and that is with regard to Whitehorse and to the downtown area of

Whitehorse, which the Leader of the Opposition referred to.

It has certainly been a problem in cities throughout the country that the core of the cities are becoming desolate. There are millions of dollars being spent by cities to try and get people to move into the downtown areas of cities to bring life back to them.

In this Bill, the provision that residential properties will continue to be assessed as residential properties as long as they are used for that purpose will indeed serve to maintain residences, family residences, in the downtown area. It will maintain a lot of the homes that have traditional and historic value to the Yukon, and, I think, with that provision in the Bill, we will go a long way to pleasing, certainly, many of my constituents who wish to continue to live in the downtown area and not be forced to pay the high taxes which a commercial assessment would force on them.

Motion agreed to

**Hon. Mr. Graham:** I move, seconded by the Honourable Leader of the Government that Mr. Speaker do now leave the Chair and we resolve into Committee of the Whole.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Leader of the Government that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

#### COMMITTEE OF THE WHOLE

**Mr. Chairman:** I now call the Committee of the Whole to order.

At this time we have a Motion that we have Mr. O'Donoghue and Mr. Mel Smith appear as witnesses on Bill Number 26, the Ordinance to Amend the Taxation Ordinance which we will be discussing this afternoon. Do you agree with the motion?

**Hon. Mr. Lang:** I move that they appear, Mr. Chairman.

**Mr. Chairman:** It has been moved by Mr. Lang that Mr. O'Donoghue and Mr. Smith appear this afternoon as witnesses on the Taxation Ordinance.

Motion agreed to

**Mr. Chairman:** At this time we will take a short recess.

Recess

**Mr. Chairman:** I shall call Committee of the Whole to order.

I would like to welcome Mr. O'Donoghue and Mr. Smith as witnesses this afternoon.

This afternoon we are considering Bill Number 26, An Ordinance to Amend the Taxation Ordinance.

The Chair proposes, on Clause 1, to have general debate, and the way we propose to handle this Ordinance is to go on to Clause 2 and to take each subsection right through. So, when we finish each subsection, we will pass the whole clause and continue on like that, because it is quite a lengthy document.

**Mr. Penikett:** On a Point of Order, can I just have the assurance of the Minister on that point, I am not sure from my reading, if you are going to follow that procedure, I would like to be certain that there are no references back to previous sections, subsequent sections as we proceed through the Bill.

It seems to me that we may be dealing with a matter or a section farther on in the Ordinance, which may refer back to and have a bearing on the section which we have already passed which some discussion may be pertinent on that.

So, I would just ask if the Minister could assure us that there are no such references in the Bill.

**Mr. Chairman:** I think that if that were to occur, the Chair would consider that and we would go back.

**Hon. Mr. Lang:** I cannot give the Honourable Member any assurances, but if there is a reference back we would be prepared to look at it if there was some valid reason to.

**Mr. O'Donoghue:** Could I just point out to you that Clause 1 of the Bill is a clause which contains 67 sections.

**Mr. Chairman:** Yes, that is correct.

On Clause 1

**Mr. Chairman:** We will consider Clause 1 and general debate at this time.

**Hon. Mr. Lang:** Mr. Chairman, I have just a couple of points. In the explanatory note, on number three, that should read "returning

the assessment roll", not "the tax roll". I want that clarified for the record.

Further to that, Mr. Chairman, I think it is fair to say that we have done a lot of work on the Bill, as I said, speaking to you in Second Reading. I think you will find, in going through the Bill, we have attempted to clarify many of the definitions to ensure clarity and that there is the correct interpretation that we, in the Legislature, want in respect to this particular piece of legislation.

Further to that, Mr. Chairman, I think that we have had a fair amount of debate on the principle and I will leave it at that for the present time.

**Mr. Fleming:** I have a question on 2(1) of the Ordinance on "ar-rears of taxes". It means taxes unpaid and outstanding after the expiry of the year in which they were imposed and includes penalties in default of payment. Now as I understand, to date, and I think it will be the same in this Taxation Ordinance, that the tax notice comes to you for 1979, for instance, May or June, sometime in the middle of the year. At that time, you impose a penalty for anyone not paying the taxes up by July 31, or is it July 1, a date in there anyway.

I am wondering now you are saying arrears of taxes means the expiry date of the year in which they were imposed. Now that would be the last day in December. It is still the intention of the Government, is it not, to also charge penalty after the date in the middle of the year which, as you say, in July.

**Mr. Chairman:** Order please. At this time, Mr. Fleming, we are in general debate. We will get to Clause by Clause later.

**Mr. Fleming:** I am sorry, Mr. Chairman. I am one ahead.

**Mr. Penikett:** I would like to ask a question, since Mr. McKay raised it earlier, concerning taxation of squatters. The Minister may not be willing, at this time, to answer it but I would appreciate an answer before we proceed further.

I assume that the Territorial Government has obtained some legal opinion on the question of squatters' rights. From my municipal experience, I know something about the complications involved in trying to rectify the problem of people living on crown land. I know that there must be a fair amount of law and precedence elsewhere about the effect of taxing squatters as to their rights on the property and the building and I would be interested in knowing, as a matter of general concern, if this matter was discussed at length and considered by the Minister in the preparation of this Ordinance.

**Hon. Mr. Lang:** Yes, it was, Mr. Chairman. It is a very good question he raises. We were told in no uncertain terms from the legal point of view that it did not give right to squatters to a particular piece of property if they were taxed on it.

I recall the comments that were made by the Leader of the Official Opposition that this could actually give them a right in law. It is my understanding it does not.

As in the past, it is our intention to attempt to assess everyone who is living in the Yukon so that they are paying their fair share. At the same time I think that we have gone a long ways in another aspect of the Department, that is my responsibility to providing land and this kind of thing so that we can get away from the situation that has developed over many years.

In respect to the specific legal question that was asked by the Honourable Member, it was taken into consideration. We were told unequivocally that there are court cases to prove that under the Statutes of Canada and through the Territorial courts there is no legal bearing due to the fact somebody pays taxes on property if they are not there with the blessings of government.

**Mr. Penikett:** Mr. Chairman, on the same point, I am obviously not a lawyer, and I, probably daily in this House, betray my ignorance of many laws, but it is my understanding just from layman's reading that in certain British laws, perhaps British common law, people do, after a certain period of time acquire some rights in property whether in fact they have bought it or paid for it or not. It would seem to me that the continual collection and payment of taxes, even if on the improvements on a piece of land over a long period of time, notwithstanding the Minister's assertion, must give the people some stake in the property.

**Hon. Mr. Lang:** Mr. Chairman, my understanding is no, in respect to the preamble. In respect to the question he is raising I would have to refer to the Legal Advisor.

I understand after a long period of time perhaps he is correct, but it is our intention, in respect to authorizing land in this kind of thing and in cooperation with the municipality which he is a member of

at the present time, as he knows, we are doing everything we possibly can to accommodate the situation so people can have land and build their homes in an orderly manner and at the same time, follow the lifestyle that they want to follow.

**Mr. O'Donoghue:** Mr. Chairman, the law here is not the same as in England. It is the same as it is in Australia. We have an Australian system of Land Titles Act which came to Canada in the 1890's, and you cannot hold a squatter's title here.

**Mr. MacKay:** I have said most of my points in the debate and second reading. There are a number of detailed points I will be bringing up as we go along the sections, having made probably my central point in the Second Reading, that is, that I am concerned about the lack of appeal that there is in the Bill. I am wondering if the Minister is able to say whether or not they have reviewed other methods and what other methods were looked at and discarded in the process of arriving at the solution that we have here today?

**Hon. Mr. Lang:** Mr. Chairman, the methods of appeal were reviewed throughout the provinces. We came to the conclusion that this would be the simplest method of appeals.

In respect to the questions that were raised in speaking to the principle of the Bill, and the type of individuals that would be put on these appeals, first of all, I would argue with the Honourable Member that the appeal stages, in respect to the assessment, are not adequate.

I think it is fair to say there are three steps. You have the Assessment Review Board, you have the Assessment Appeal Board, and then you have the Supreme Court to the Court of Appeal.

In respect to the individuals who are appointed to that board, a very great deal of care would be put in respect to appointing individuals to that board so that you would have a cross section of people and, hopefully, in one or two cases, perhaps some expertise in the area of assessment, if that is possible with the size of our population, and also bringing into account people that are prepared to serve on such a board.

I think that some people are under the impression that it is very easy to get anyone to sit on a board of any kind, no matter whether it be this one or whatever you may have. That is not totally accurate, Mr. Chairman. Most people are quite busy and it does take a lot of a person's individual time to serve on a board of this kind. But, I can assure the Honourable Member that we will be doing everything we possibly can to ensure that we get good representation on the board.

It would be my policy to be writing to the municipalities asking them for recommendations of names that they would like to see serve on the board so we can also have another junior government contributing names as well.

So, Mr. Chairman, I think that will well be taken care of in respect to the appointments to the appeal procedure and, subsequently, I think they will get the necessary representation so an individual who does have a complaint will be adequately heard and fairly heard.

**Mr. Penikett:** Mr. Chairman, on the same point, I had a different impression from my friend to the my immediate right. It was my impression, and I think the Minister has just confirmed it, that in the Bill there is an additional stage of appeal than there was previously.

The situation, as it operated before, was that the appeals of the decisions from the Court of Revision went straight to the courts. We now have another appeal stage before we go to the court. It seems to me that the grounds on which you can go to the courts are much narrower.

The Minister has just explained all that, but I wonder if he might briefly explain why the Government saw fit to not continue the previous practise, which was to allow appeals to the court from the decisions of the Court of Revision.

**Hon. Mr. Lang:** Mr. Chairman, it was my understanding that there were a lot of problems in respect to appeals going directly to the court, not based on technicalities of law, but based, as one of the Honourable Members referred to, on evaluation.

I do not think that that is the court's decision. The court's decision should be based on technicalities of law. The objectivity of looking at it in respect to the assessment and the value of assessment should be that of the two boards that will be set up, the local board, as well as the overall Territorial board, so that once you do get to the Supreme Court, it will then be a case of technicality on a point of law as opposed to what has been experienced in the past.

I think it is fair to say that this type of procedure was looked at by

a great number of people and I think, in fairness, we should see how it works. I think it will work to the best advantage of the people that want to use the appeal procedure as opposed to the way it was structured previously.

**Mr. MacKay:** I would like to follow up on that and say that although I do appreciate the second stage in the appeal process within this Ordinance, that does not solve the problem I have. That is that in both instances, there are no positions in either board which have reserved for people with any technical expertise on the subject.

While I appreciate that objectivity is important, I think that not to have such provision compounded, then by not having an appeal on value beyond that, to the courts, is weakening the appeal procedure overall from what it was before.

I think you could have 25 boards, one on top of the other to appeal these things to, but as long as you had nowhere in these boards any expertise required, both not only for evaluation but how do you hear evidence, how do you weigh evidence, we are going to put these things which a court is trained to do in the hands of amateurs,

I feel that that makes it a weak appeal system and so my objection, I think, is still sustained—that we should be either putting into the board at least one person, perhaps two, who has some professional expertise, both in hearing evidence and in terms of assessment.

However, we shall allow the appeal to go on to court for value and drop one of the appeal stages.

**Hon. Mr. Lang:** Mr. Chairman, all I can do is assure the Honourable Member that we will definitely be looking at the qualifications of individuals that will be appointed to these boards.

I think it would be very unwise to structure, in law, that you must have somebody with this background. I think you could be putting yourself in the difficulty of not being able to fill the commitments of the legislation of getting people to serve on these particular boards.

I think it is fair to say from at least this side, and I think the Honourable Member will see as time goes on that we will definitely be getting qualified people to serve on these boards, a cross-section of the population, to ensure that each appeal that is put forward is heard fairly and objectively.

**Mr. Penikett:** I am reassured by the Minister's answers, because I am almost certain he must be close to running out of Tories in the Territory to appoint to the boards and committees. I am glad to hear that we will be getting qualified people instead.

One of the principles that we have had with the property tax legislation in the Territory is, of course, that the Territory is the assessing authority. In the case of this City and the other municipalities is the taxing authority. It seems to me that that division of power is basically enshrined in this legislation. That is a good thing.

I would like to ask the Minister, though, about a couple of areas where that principle seems to be betrayed. There are in here, I remember one in particular, the references that I think Doctor Hibberd referred to earlier about the taxing of single family residences in the downtown area. As long as they remain occupied, and they are still used for the purposes of residence they will be taxed on that basis, a notion which I find commendable and would probably agree with. I wonder if we are really going to be true to the principle of the division of powers that are basically laid out in this Bill, if that kind of decision ought not to be left to the municipality and whether it is perhaps not inappropriate to include it in this legislation?

**Hon. Mr. Lang:** Mr. Chairman, the Association of Yukon Communities first felt that it should be left to the taxing authority to make that decision, but in my understanding, in reviewing the particular section, because they did have the opportunity of going through a draft of the Legislation, I think, if my memory serves me correctly, they did concur that perhaps it would be better for us, as the assessing agent, to assess those individual's properties initially as residential as opposed to leaving to the taxing authority. It would make it a very difficult situation for them to sort out who would be taxed in a different rate, as opposed to the assessment or, for that matter, as the Honourable Member is inferring, I think, that perhaps the local taxing authority should be able to make major decisions in respect to the assessment and the municipality or the local taxing authority will be the taxing authority so there is a clear delineation of responsibility.

It was felt that we, in this particular case that the Honourable Member has raised, in these particular areas, should be the ones to

make that decision in respect to our Legislation now, as opposed to leaving it wide open and perhaps getting into a situation that was experienced not too long ago in respect to the City of Whitehorse.

I think we have resolved the problem. I think that most people concur that those types of residences should be assessed accordingly as opposed to leaving them in limbo and perhaps to the whims of the local authority every year, because, as you know, it would have to be reviewed every year.

I feel quite strongly that, and I know that the Chairman as well as the Honourable Member from Whitehorse South Centre feel very strongly that we have a responsibility to ensure that these people are protected and that is what the legislation does.

**Mr. Penikett:** I am afraid that the longer the Minister talks the more he begins to make an argument against what he is proposing to do. I think what they may have done by doing this is done something very commendable for entirely wrong reasons. The result may damage the Bill. Let me suggest to the Minister that he is dealing with a temporary situation now in downtown Whitehorse because of the economic evolution of that area and some of the transitions that are taking place there in the nature of buildings and housing.

I can tell the Minister that the present City Council is very sensitive to these problems and would love to have had the power in the last couple of years through variable mill rates and so forth, to do something about it, but they did not under the existing Ordinance.

However, I assume that this Legislation is going to last for some time. At least we ought to be writing legislation that has an expected lifetime of longer than a couple of years. We may find that the inclusion of such provision betrays the principle of the clear separation of powers that has been enunciated by the Minister.

You may, I think, in two, three or more years from now have different categories of property that require, if you like, that kind of treatment or require some kind of special tax consideration, or let me use the word, use a kind of flexibility in terms of tax policy, that really, I would argue and submit, ought to be left to the taxing authority and not to the assessing authority.

Just to conclude that point, I would just say to the Minister and perhaps we will deal with this when we get to the clause by clause reading, that he may have done something which is very commendable but for the wrong reasons and may, in the process, have damaged what could be an excellent piece of legislation.

**Hon. Mr. Lang:** I cannot understand how the Honourable Member can say "for the wrong reasons". I think it is fair to say that we have said that we are the assessing agent and we are going to determine how it is going to be assessed, the location of the assessment. All these types of things are the responsibility of the assessing agent we are going to take on. Therefore, it is an area, I believe, we should look at.

We have experienced problems in that particular area and I cannot buy the argument put forth by the Honourable Member that it is an area that should be left to the municipalities because the way I understand it, in some of the provinces in the past years, the responsibility was not taken on by either the Legislature or the municipalities and subsequently, you have a situation where you have people calling for revitalization of major cities because people have moved out of the downtown core and now they want them to come back.

I would submit that it does help to negate that type of thing happening in respect to our major municipality as well as for our other municipalities and future municipalities.

**Mr. Penikett:** I do not want to prolong the debate. I think the Minister, as usual, is eloquent but wrong. The reason that we have many of these kinds of problems in large municipalities in the country is because of some complications in the tax laws into which they operate. I think the situation you will find, in fact, in many western Canadian cities, where they do not have the kind of tax flexibility which I would submit would be a good thing for a municipality the size of Whitehorse to have, is they end up in the downtown areas getting into horrible fights between residences and people with speculative land or commercial developers which are not easy to resolve, and the only protection that ends up being for the residents is a petition. Essentially the City Council will have their area down zoned and they may get it down zoned to temporarily protect the housing but of course, in the broad historical scale, that property will eventually get converted into some other use.

Of course, developers and speculators get very upset if they have bought some land at a commercial price and then someone has come along and down zoned it to residential.

I think that cities are living entities and I think that the downtown areas in cities, even a city like Whitehorse, have been going through some tremendous changes recently and will continue to do so.

I think that the government that is closest to those situations is the government that really needs the flexibility and the levers, if you like, the instruments to deal with those changes as they occur.

But, I will not risk angering the Minister by debating this thing at length. I just submit that perhaps we can deal with it when we get to the clause.

**Mr. MacKay:** I did not actually finish discussing appeal procedures before we got off onto a tangent there.

I was wondering if I could ask a question of the witnesses, Mr. Chairman.

**Mr. Chairman:** Yes, go ahead, please.

**Mr. MacKay:** Thank you.

You were in danger of falling asleep, so I thought I should—.

**Mr. Chairman:** Maybe we should dispense with the general discussion first and then ask it, because if it is a question of policy, you would have to go to the Minister.

**Mr. MacKay:** It is a question of fact. My inquiry is going to be in respect to what appeal procedures exist in other legislation across Canada and is there anything that parallels what we have here anywhere else or what is the general norm?

**Hon. Mr. Lang:** Mr. Chairman, to my understanding, I believe British Columbia's falls along the lines of this particular legislation. Is that not correct, Mr. Smith?

**Mr. Smith:** That is correct.

**Mr. MacKay:** Is that the only place that follows this procedure?

**Mr. Smith:** Mr. Chairman, the appeal procedure, as established in this Ordinance, is the procedure used in almost all Canadian provinces. The appeal procedure that we are proposing here is exactly the same as in Alberta.

Other provinces have other boards, that they call municipal boards and things like this, but their function is exactly the same as the proposed appeal board in this Legislation.

**Mr. MacKay:** Once again we come into the problems of the size of Yukon.

Would it be the Minister's intention to provide for the Commissioner to appoint certain boards, would it be his intention to perhaps appoint a board for Mayo, the L.I.D. of Mayo to have a board, a review board for the L.I.D. of Haines Junction, for Teslin, each of which has to produce its own board. Is that the way he envisages the Legislation working?

**Hon. Mr. Lang:** Mr. Chairman, it depends. We would be looking at the Yukon as regions.

In respect to the first stage, it could well be that we would perhaps appoint a board out of Dawson City, for example, the northern region, that could well take in the concerns of the Mayo area, if there are not that many appeals. If there are a great number of appeals, then we definitely have to look at the concept of perhaps appointing a board right locally within that area. But, for an example, in the Whitehorse area, the Assessment Review Board could well be appointed to take in not only the City of Whitehorse, but also the outlying locale, outside of the City of Whitehorse.

At the same time, then, you have the territorial appeal board as well.

**Mr. Chairman:** Is there any further general discussion? If not, we will consider clause by clause, section by section.

On Clause 1(1)

**Mr. Chairman:** Any discussion on Clause 1(1), "1(1)"?

**Hon. Mr. Lang:** Mr. Chairman, I think there is a major point here and we have intentionally divided the Ordinance into two areas, one to deal with the assessment, one to deal with taxation.

So, an individual who wants to particularly look into this Legislation and is not familiar with it, they know that there are two parts to the particular Ordinance in question.

Clause 1(1) agreed to

On Clause 2(1)

**Mr. Chairman:** In this Ordinance, this is the one on definitions. The first one is "arrears of taxes".

**Mr. Fleming:** Thank you, Mr. Chairman, however, since then I



have gone back through and found the place in the Bill where the penalties are imposed on July 2nd.

However, a question possibly to the Legal Advisor on the arrears of taxes. This is the unpaid and outstanding after the expiry of the year in which they were imposed.

Is there not a definition for the penalties or the taxes after the 31st of July, I think it is, again?

**Hon. Mr. Lang:** Mr. Chairman, I think that this particular question is answered under Section 65 and the year that they are imposed, as of that year, if they are not paid as of July 2nd of that year, for example 1980, if you have not paid your taxes, Section 65 clearly delineates the interest rate that an individual would have to pay for defaulting on payment of taxes.

The definition, it should be pointed out, in this particular section is exactly the same as the one in the previous piece of Legislation.

**Mr. Fleming:** Mr. Chairman, it is on the other sections that I actually have questions. I will wait until we get there. Thank you.

**Mr. Penikett:** I wonder if, Mr. Chairman, with your consent and the Minister's, I might ask a question of legal fact?

Section 2(1), has a section " 'land' means physical land and includes land covered by water, but does not include coal, minerals, oil, gas, gravel or other substances occurring naturally in or under the land;".

We have got some sections later on here, but I would like to raise it now while we are dealing with definitions. There are, I guess, a variety of —

**Hon. Mr. Lang:** Mr. Chairman, on a Point of Order.

I thought we were going through this definition by definition and, in order so that we do not get off base, could we take one at a time and discuss them at that time?

**Mr. Penikett:** I just wanted to make sure I caught you before you went on too far.

**Mr. Chairman:** Arrears of taxes, any more discussion on this particular section?

**Mr. Chairman:** On page two, any discussion?

**Mr. Penikett:** Sir, that has just caught my eye. It may be good law, but I wonder if it is good English? "Collector" or "collector of taxes" means (a) in respect of areas not within a municipality, the Territorial Treasurer, and (b) in respect... it does not seem quite clear to me.

**Hon. Mr. Lang:** Mr. Chairman, this is the Section from the old Ordinance and I think it clearly delineates the intention. The Territorial Treasurer is the collector outside of municipalities and within municipalities is the treasurer of the municipal council.

**Mr. Penikett:** I am sorry, Mr. Chairman, it is not a big point. It just does not seem to be a sentence, that is all.

**Mr. O'Donoghue:** It seems to me, Mr. Chairman, to be an excellent sentence.

The subject is "collector" or "collector of taxes", the verb is "means", and the object is the whole of (a) and (b).

**Mr. Penikett:** Mr. Chairman, I am sure it must be excellent law. I just might engage in an endless dispute with Mr. O'Donoghue about the English, but I will not do that now.

**Mr. Chairman:** Is there any more discussion on section (a) at the top of page 2?

**Mr. MacKay:** Perhaps I could ask the Chief Assessor if his definition of "depreciation" is the commonly used definition in this type of ordinance?

**Mr. Smith:** Mr. Chairman, in my experience, this is a very common definition.

**Mr. MacKay:** Without, perhaps, jumping too far ahead, I would have expected to see the word "depreciation" appear under Section 12(1), when it says "Improvements shall be assessed at a value equivalent to their replacement cost", which I thought, under the Preamble, seemed to indicate it was less depreciation.

As I say, I may be jumping a little bit ahead, but I think that when we are defining this thing we should know where it is going to appear.

**Hon. Mr. Lang:** In respect to the section that the Honourable Member is referring to, if he looks at number 4, it talks about the age of the improvement, condition of the improvement, I think that would well take that into account. Is that not correct, Mr. Smith.

**Mr. Smith:** Mr. Chairman, I believe that that would adequately cover it.

**Mr. MacKay:** Perhaps as we go through I will find the answer, but I could not find the word "depreciation" in the Ordinance, other than the definitions.

**Mr. Chairman:** Is there any discussion on "improvements" under section (a)? Mr. Penikett, have you a question?

**Mr. Penikett:** No, Mr. Chairman, I was just trying to contemplate some of the things that might be erected on land, but I will let it pass.

**Mr. Chairman:** Is there is no further discussion on Section (a)?

**Mr. MacKay:** I have a problem. Would a mobile home generally require mention on the transfer of land?

**Hon. Mr. Lang:** Mobile homes are referred to later on in the definitions if one looks at the following page.

**Mr. MacKay:** Thank you. I was aware of that but the Section reads: " 'improvement' may mean an improvement to real property and includes (b) any thing erected or placed in or upon, or affixed to an improvement, so that without special mention it would be transferred by a transfer of land."

I am wondering if that definition of an improvement excludes mobile homes?

**Mr. O'Donoghue:** Mr. Chairman, a mobile home which becomes affixed to the land changes its character and becomes fixed. If it is merely a mobile home parked on a piece of land, and the land is sold, it does not convey the mobile home. In that sense the mobile home would require special mention. But, it would not require special mention when it becomes fixed. In the mobile homes section we have to deal with it in both its states, mobile and immobile.

**Mr. MacKay:** So a mobile home that has been put on bricks is caught under this section, and a mobile home that is still on wheels is caught further ahead. **Mr. O'Donoghue:** That is correct, Mr. Chairman, except that out of caution we used a few nails to nail it down to the definition as well.

**Mr. Chairman:** On the definition of "land", is there any discussion?

**Mr. Penikett:** I understand for normal tax reasons why we would not include for purposes of this Ordinance some of the minerals or other substances mentioned here. I seem to remember, Mr. Chairman, a court case some time ago about, not mineral leases but something, I think perhaps they were called crown grants or something, in certain types of land that were granted for mineral purposes but might not be used for them, but somehow because they contain minerals or are thought to contain minerals, they might be exempt from taxation. I wonder if perhaps Mr. O'Donoghue might be able to say something about that? My memory is vague on the subject.

**Mr. O'Donoghue:** Mr. Smith is more familiar with the case.

**Mr. Smith:** Mr. Chairman, there are certain Crown granted mineral claims in the Yukon that convey surface rights with them. It is our intention and in discussions with Mr. O'Donoghue, we have the right and intend to assess and tax those properties that are Crown granted mineral claims that carry with them service rights.

**Hon. Mr. Lang:** I have a question here and if I could have clarification from the Assessor and that has to do in respect to quarries, in this definition it talks about gravel or other substances occurring naturally in or under land. The legislation still allows us to assess quarry pits, does it not, or does this particular definition exclude that?

**Mr. Smith:** Perhaps the question should have been directed at Mr. O'Donoghue, but in my opinion this simply means that when we are assessing a piece of land upon which there is gravel that could be quarried, we could not consider that gravel as part of the value any more than we could consider copper or gold.

**Hon. Mr. Lang:** I would like an opportunity to look at this, if we could, prior to passing it through.

**Mr. Chairman:** You would like it to be held over?

**Hon. Mr. Lang:** Yes please.

**Mr. Chairman:** The definition of land, it is agreed that we stand it over?

**Some Members:** Agreed.

**Mr. Chairman:** Local Improvements, we will deal with that first. Any discussion.

**Mr. MacKay:** In (e), it appears now that the construction of conduits for pipes or wires along the streets would be a local improve-

ment. Perhaps we could have a definition of what is meant by a conduit. We are not talking about Yukon Electric putting wires across the back of a property and that being assessed as an improvement, are we?

**Hon. Mr. Lang:** It is my understanding that is the implementation or excavation and then you put wires under the ground and in a large part a lot of our developments, we are doing that now as you know in the new subdivisions at the request of the Municipal Council in Whitehorse. At the same time, that particular local improvement charge is built right into the selling price of the land but this does take into account an older section of town that is getting a local improvement and we would provide for that.

**Mr. Penikett:** I would just like to pursue that. Perhaps the Minister could explain, and perhaps help me clear up some cloudiness in my own mind on this point. With local improvements such as sewers for example, the municipality presumably owns the main and the line that goes to the property is, in fact, the responsibility of the house owner, in fact they pay local improvements charges and so forth and they pay a sewer charge when they are hooked up. What is the situation in the case of cable, for example, put down by a private utility? Presumably they still own it.

I am trying to think of a case where there is some local improvement charge for that. The only one I can think of is where the municipality, in fact, installed the cable and the line and then the utility hooked up later. I am wondering if something like, for example, television cable is put down on the property whether that is under this Ordinance within the means of this definition, subject to taxation, or whether if the utility company has cables running down, which might be classed as an improvement on the property, if they would be subject to taxation too.

**Hon. Mr. Lang:** If you look later on in the section, I am not too sure where it is, but they would definitely be subject to taxation. As far as the local improvement charge in the older section of the town, they put the installation in and they were charged a surcharge in respect to installation, so the consumer who chose to make use of that particular utility would pay for it.

At the same time, it should be understood that these companies are also under Public Board scrutiny, not here locally, but from the Federal CRTTC, I believe, and there has to be a lot of major capital money put up front in major new subdivisions, and subsequently we entered into an agreement, for example, with the cable company here for the Hillcrest subdivision, because of the fact that their prices are held down through the scrutiny of that particular board, similar to what is done with Yukon Electric.

As far as the taxing is concerned, it is my understanding and perhaps the Legal Adviser can clarify it for me, but there is a section later on that outlines that these would be subject to a tax. Is that not correct Mr. O'Donoghue?

**Mr. O'Donoghue:** Not really subject to a tax. All this means is that a conduit is prepared by the local authority into which the telephone company, the cable company can insert their wires. The purpose of it is if you make a bylaw preventing them from going overhead, prevention is an advantage to people along whose front the wires might normally be going. So everyone has to pay a common charge to have a wire-free view from their decks.

**Mr. Fleming:** This whole section is bothering me considerably. I wonder why it is under (a) (b) (c) (d) (e) and (f) and the rest of it. It all amounts to the same thing.

I would like to ask the Legal Adviser in plain words if there is a telephone or power line put in on a new property today, by, we will say, Yukon Electrical Company or otherwise, and that individual, such as he does today, pays \$350 and \$700 if he does not have a neighbour right next door to him, is that going to be considered an assessment, because it being in the Ordinance here I take it that it is going to be considered as being assessed as improvements on the property.

**Mr. O'Donoghue:** I cannot answer that question, but later on in the Ordinance the telephone line itself, the electric line itself is chargeable or taxable to the company which is providing that service. They then must recover their cost in some way and the current method of doing it is charged back to some, or all of the customers, a cost of running a line, thirty miles or five miles.

It is a different question that we are dealing with here, the service that the local government provides to allow a telephone company to provide a certain type of service, they are two unrelated things.

**Mr. Penikett:** I am sure I contributed to some of the confusion. Now that I think about it, obviously it would not be a local im-

provement charge unless it had been provided by the local government. It would be the telephone line, cable or whatever.

**Hon. Mr. Pearson:** I think that possibly what the Legal Adviser has just said should be reiterated. Telephone lines, power lines, et cetera are taxable. They are assessed and they are taxable. They are an improvement but they are not a taxable item to the owner of the property. Rather, they are a taxable item to the owner of the utility.

**Mr. Penikett:** Just to ask the Government Leader, is that true of cable lines too?

**Hon. Mr. Pearson:** I believe so.

**Mr. Fleming:** Then I am wondering why they put it in as Local Improvement. It sounds as if it would be put into the Taxation Ordinance.

**Mr. Penikett:** Perhaps I can explain. I know of one case in the City recently where the power company was reluctant to provide a power line to some people. The City was allowed in the Municipal Ordinance to contract for, construct, put up the line, and deliver it to the people, who then paid for it, rather than the lump sum which perhaps the utility might have charged those people, they paid for it as a local improvement charge over a period of twenty years on their property. The only reason they were paying for it, and this is part of my confusion, was, in fact, because the municipality installed and supplied the line.

**Mr. Fleming:** It is clear to a certain extent because it is clear that where there is a sewer line going down the street, that this is going to be put on your taxes. However, I am concerned that they are speaking the same thing for the connecting line from your house to your own property line, and the way they have got it in here it looks like it could be used in that sense.

**Hon. Mr. Lang:** From the property line into one's home, that is your responsibility. That is not the government's responsibility in respect to water and sewer. The frontage is the responsibility of the government, but from the property line in is the responsibility of the individual.

**Mr. Penikett:** I think it might make it clear to Mr. Fleming, that if he were talking about a power line, he is worrying about, I think the only case where this would apply, the Teslin L.I.D. rather than if NCPC or Yukon Electric or someone were to decide that they were going to supply the line, put up the poles, connect them up. In fact, the Teslin L.I.D. as opposed to the power company, could charge the residents of Teslin, or get the money back for this thing from a local improvement charge on the properties that were getting hooked up to this line. I think that is all this allows this to do.

**Mr. MacKay:** Just a brief word. We are just about to clear this whole area and I think that where the confusion arose in my mind, initially, was that there was nothing in the definition of a local improvement that said it was works done by the local authority. That has been the implicit assumption of all the discussions that went on here about conduits and electric wires. I am wondering why it cannot say that in the definition.

**Mr. Penikett:** Mr. Chairman, by definition, that is the only kind of thing that can be a local improvement.

**Hon. Mr. Lang:** Mr. Chairman, my honourable colleague has answered the question. If you look at the definition, the definition carries through the legislation in respect to who can administer a local improvement charge and who can charge it. It is referred to later on in the legislation. This is the definition of what a local improvement charge is.

Then, when you get further into the legislation, you will read how it can be administered.

**Mr. Chairman:** On Section 2(1): "mobile homes".

**Mr. Penikett:** Mr. Chairman, I would just like to ask the Minister something about the wording of this definition. I am sure it has been worked on with care.

"Mobile home" means any structure whether equipped with wheels or not and whether self-propelled or not, that (a) is used or designed for use as a dwelling or sleeping place,..."

I am wondering what the situation of a Winnebago in a backyard or a camper-trailer in a backyard that might sit there for a year or two. It is designed for people to sleep in, someone might, in fact, sleep in it one or two nights of the year or perhaps more. Would that vehicle then be subject to taxation?

**Hon. Mr. Lang:** Mr. Chairman, my understanding is no. If you look further into the Ordinance, you have a total section referring to mobile homes, Section 3 and it continues through with various



subsections which outline the mobile home and the registration and various other aspects, on page 5 of the Bill.

**Mr. Penikett:** I am sorry. I noticed that 3(1), it says, "...not registered...under the Motor Vehicles Ordinance" and it occurs to me that if someone did not have license plates on or had not registered that the thing might be sitting there for any reason, it might be subject to taxation even though it is not being used as a residence.

As such, you will note down here it talks about "unoccupied trailers that are the stock in trade...", I understand that.

I do not have any big problem with this, there were so many sections there and I wondered if everything was covered. "...an owner fails to register his trailer or mobile home...", I guess that is not the vehicle.

Well, I will perhaps leave the question, Mr. Chairman, I do not expect an answer now, but I wonder about Winnebago and things.

**Mr. Fleming:** I was just going to ask the Minister if he could tell me whether that "carried" would mean a tent? It could mean a tent?

**Hon. Mr. Lang:** No, Mr. Chairman.

Mr. Chairman, I would recommend that we clear this section as the definition of "mobile home", in respect to the application of this definition is, as I said, referred to later on in the Ordinance. Subsequently, that gives the ability to the assessor in respect to the assessment of that particular unit.

**Mr. Penikett:** I am prepared to do that, as long as the Minister gives me the assurance that he would check that a Winnebago without plates, sitting in someone's backyard will not be subject to taxation in this thing.

**Hon. Mr. Pearson:** Oh, no, Mr. Chairman. I believe under this Legislation, if it has not got plates on it, it will be subject to the taxation.

**Mr. Penikett:** Well, in either event, that is clearly the intention of the Government to do that, is it?

**Mr. Chairman:** Mr. Pearson, are you going to answer the question.

**Hon. Mr. Pearson:** Well, Mr. Chairman, I have read the Ordinance and that is what I get from it. If you have a camper or a Winnebago or some kind of a mobile home in your backyard, in your driveway, for that matter, and it does not have license plates on it, the assessor could, in fact, deem it to be a mobile home, under this Ordinance, that has not been licensed under the Motor Vehicles Ordinance, and therefore is assessable.

Now, I am sure it will be subject to appeal, but it is assessable at that point.

**Hon. Mr. Lang:** Mr. Chairman, we are getting further into the Bill. I am not disagreeing with what the Honourable Member has said, but, at the same time, the Legislation does provide for Section 3(2) and 3(4) of the Bill.

Subsequently, with that particular piece of legislation, other than if an individual is using it for their home, it would not be our intention to assess and tax a unit of that kind. But, if you can understand with technology being what it is, to try and write these things into legislation is very difficult.

Perhaps, I would refer to the Assessor who has to deal with this type of thing on a daily basis.

**Mr. Smith:** Mr. Chairman, as I read the legislation, I would say that if a mobile home is not licensed and it is sitting in someone's backyard for over a year would be subject to assessment and taxation, under this Ordinance.

**Mr. MacKay:** I appreciate the clarification. In fact now I would like to ask is this the intention of the Government, then, to tax these things?

**Hon. Mr. Lang:** Mr. Chairman, as I said earlier, if it was there for a year, as the Assessor has pointed out, and somebody is actually living in and using it, yes, it would be.

At the same time, it does provide for exemptions. If it is a case of having something like that, I am sure that we would be prepared to look at a situation and perhaps exempt it.

**Mr. MacKay:** Probably leaping ahead, as you say, to Section 3(2). You said, Mr. Minister, that somebody who has had it there for a year and is living in it should be subject to taxation, no problem, but the Ordinance says if it has been there for twelve months or somebody is living in it. So, you can have a situation where nobody is living in it and it is being taxed. That is what we are concerned about, if it is just being parked.

Perhaps we should change that "or" to an "and".

**Hon. Mr. Pearson:** Mr. Chairman, I know of a particular instance in my constituency where a camper is parked and it is used as a storage shed. It has been for three years and, Mr. Chairman, I submit to you, it should be assessed. It is an improvement.

**Mr. MacKay:** Mr. Chairman, just to complete Section 2(1)(c), it says "...does not include an occupant or mortgagee;". I am wondering about the case of where a property has been sold under an agreement for sale, which is not the same as a mortgage, whether or not that individual holding the agreement for sale would still then be the owner of the property.

**Mr. O'Donoghue:** Yes, Mr. Chairman.

A person who buys the property under an agreement for sale would be the owner.

**Mr. MacKay:** What about the converse of the person who sells a property and takes back an agreement for sale? Is he not, under this definition, still the owner?

**Mr. O'Donoghue:** I do not know about the definition, Mr. Chairman, but he does not own the property.

**Mr. MacKay:** That is precisely the point I am trying to make, Mr. Chairman. Should this section be more clear about who the owner is? Should it say, for example, "not include an occupant or mortgagee or holder of an agreement for sale"?

**Hon. Mr. Lang:** Mr. Chairman, I think you would really be confused. If somebody has an agreement for sale, then they obviously would own the property.

**Mr. MacKay:** Any agreement of sale has a vendor and a purchaser. I am talking about the vendor. He holds the agreement for sale. He is the one who is still holding that piece of paper formally.

That is what I am concerned about, is he now an owner, still an owner of the property by this Section? Even after that, I do not know what significance that would have. I raise that as a point just to explore further as to what an owner is.

**Hon. Mr. Lang:** Mr. Chairman, I think that is clarified later on in the legislation. I refer once again to the Legal Advisor, I think, in respect to a situation like that, who owns the property and who is liable for paying the taxes. I think is covered under a section later on in the Bill.

**Mr. O'Donoghue:** When you are dealing with a definition, you either try to make it a wide definition and capture everybody into its ambit, or you try to be narrow and exclusive.

This is the wider type of definition and it includes both the buyer and the seller at the same time, under the definition of owner.

**Mr. Fleming:** Yes, Mr. Chairman, I understand that. I am just wondering why they do not explain it a little better, though, because, in (c), it says "has any right, title, estate or interest in real property, but does not include an occupant or mortgagee;".

Well, I can understand the mortgagee probably is not the owner because the fellow that holds the mortgage would actually be the owner.

An occupant could also be a renter or anything else, but why do they have it like that. One really contradicts the other. Why not say that it does not necessarily include the occupant or the mortgagee? Then I think you could understand it. It would be a little simpler.

**Mr. O'Donoghue:** Mr. Chairman, what the draftsman is trying to do is to mix his colours in the definition section and then do his painting with the rest of the Ordinance.

This is only a preliminary run around. We have captured occupant in one section, owner in the next section, and we are trying to mix a wide palette. Then, they are dealt with specifically, occupant, owner, et cetera, in the Ordinance.

But it is difficult to debate or discuss the definitions until you get to the meat. This is only the gravy, Mr. Chairman.

**Mr. MacKay:** Perhaps then we will have the opportunity to return to this section when we get into the meat. Mr. O'Donoghue has pointed out the difficulty of debating a definition until you know how you are going to use the definition. I would appreciate the opportunity of perhaps coming back to this section when we get into the sections dealing with owners and occupants.

**Hon. Mr. Lang:** Mr. Chairman, as long as we are not making a habit of it, I have no problems in referring back.

**Mr. Chairman:** I think in this particular case we will consider Section (c) stood over.

**Mr. Penikett:** On this section on "trailers", Mr. Chairman, I would just like to express a, perhaps, sentimental wish that all

these things could have been lumped together. I am a little confused as to references as to trailers and mobile homes. I am sure it is my fault.

**Mr. Chairman:** Are you satisfied, Mr. Penikett? Can we continue on?

**Mr. MacKay:** Could the Legal Advisor tell us what he encompassed in the words "legal disability"? Would this be bankruptcy and that sort of thing, as well as insanity and so forth?

**Mr. O'Donoghue:** It means minority, a person in a state of minority, under the age of 19; it means a person who is insane, either under a committee or under the public administrator; and, in the old days it used to include married women.

On Clause 3(1)

**Mr. Penikett:** Mr. Chairman, I am sure that this is covered in here somewhere. I just have trouble keeping all the balls juggled.

I have got a mobile home. I drive it down to the Motor Vehicles Branch. I register it under the Motor Vehicles Ordinance. May I then escape property taxation by virtue of doing that?

**Mr. Smith:** Mr. Chairman, it all depends on what Mr. Penikett did with his mobile home under subsection 2.

**Mr. Fleming:** I take it what you are saying is that even though you register it and take care of it under subsection 2, which we have not got to yet, you take it home and leave it there for a year and do not use it, you would be subject to taxation on it, even if you did not use it? I mean, even if it was not used as anything else other than just sitting there?

**Mr. Smith:** Mr. Chairman, it is my interpretation of this section that if that mobile home, even though it is licensed, is situated on a piece of land for twelve months, and is used for any other purpose, it then becomes taxable.

**Mr. Penikett:** Mr. Chairman, I guess there is no hope of catching the people like this, the houseboat dwellers in Vancouver, who might, for example, just keep moving their mobile home around the streets of Whitehorse and parking in parking lots. I guess, there is no way you will ever catch them, but at some point, I suppose they become residents. I guess I understand this.

**Mr. Chairman:** Is there any further discussion on 3(1)?

Clause 3(1) agreed to

On Clause 3(2)

**Mr. MacKay:** Just to return to the argument we got into somewhere before, it seems to me that the purpose of the law is to tax an object that has been placed on a piece of property and that is being used in conjunction with that property. We don't want to tax a Winnebago that is just sitting there year round because the owner is too sick to drive it. We don't want to get into that situation. What we want to do is to get into a situation where we are taxing people who are using that camper for storage, or the Winnebago as a guest house for their in-laws. If that is the case, why don't we say between (a) and (b) the word "and," which means that this particular trailer or mobile home then has to pass both tests in order to qualify as a taxable improvement, rather than merely passing one, the one of them being that it just sits on the land for twelve months. If you make it pass both tests, you are going to catch the ones you want to, and not catch the ones you don't want to. I assume you don't want to catch an unoccupied Winnebago that is not being used for anything.

**Hon. Mr. Lang:** Mr. Chairman, the converse is true of what the Honourable Member is getting at, because there was a great deal of discussion on this point. If it has to be on the land for twelve months, for example, if a mobile home had to be on the land for twelve months, and it had been there for eight months, and the assessor comes around and sees the particular unit, if that were an "and", then it could not be assessed for that particular year, and would have to follow through to the following year. That is why the "or" as opposed to the "and". I think that it is fair to say, Mr. Chairman, at the same, that time the Winnebago that the Honourable Member is referring to would, in 99.9 per cent of the cases, be registered as a motor vehicle unit in, Subsection 3(1), and subsequently used accordingly.

**Mr. MacKay:** But my reading is that it says, "notwithstanding Subsection (1)," if it is there for twelve months, it is taxable. So, it does not matter if it has plates on it. If it is there for twelve months, it is taxable. I think we are still catching the guy who has a genuine Winnebago sitting in his back yard that he just does not care to use for eighteen months. The other side of the coin is that you want to get someone who is using it from day one as a house, to tax him, but is there not an answer to this dilemma, Mr. Legal Advisor?

**Mr. O'Donoghue:** Mr. Chairman, this is a distillation of several days of discussion, to date, and argument. Honestly, it is the best we can do.

**Hon. Mr. Pearson:** When we were putting together this legislation, you try and do it to accomplish what you want done, and hurt the least number. What the Legal Advisor is saying is true, we agonized over this section for a number of days, because I am sure we thought of every alternative going. This really seems to be the best way. If we change the word to "and," and then both of those requirements are necessary, we feel then that we will miss far more than we will catch the other way.

**Mr. Tracey:** I think it would also be possible, if "and" were inserted in there, for a person who owned a Winnebago to park it on the land for eleven months, move it off the land for a day or two, come back on the land, and use it again. He could circumvent that law.

Clause 3(2) agreed to

On Clause 3(3)

**Mr. Penikett:** We are all having a lot of fun with this problem of mobile homes and trailers. I am sure that we do not want to have too much fun with it, though. I wonder, in the lengthy discussions to which the Government Leader alluded, if he might save us some time going over the same ground if they had considered the possibility that someone might have a trailer lot and trailers for sale, and, in fact, some people living in some of them.

**Hon. Mr. Pearson:** I do not think we considered that, Mr. Chairman, did we? I cannot recall all of the conversations we had.

**Mr. Smith:** Mr. Chairman, the word "unoccupied"--

**Mr. O'Donoghue:** The first word is "unoccupied".

Clause 3(3) agreed to

On Clause 3(4)

**Mr. Fleming:** Yes, Mr. Chairman, this bothers me a little bit, the fact that it is a regulation and a regulation-making power. I am just wondering how the government intends to use that.

"The taxing authority may make regulations providing for the exemption of trailers and mobile homes from the application of subsection (2)." In other words, I take it that the Commissioner could make a regulation such as they do in the working for mines, that you work so many hours over and above what the actual ordinance calls for. In this case, probably over and above what this ordinance calls for.

In other words, personal exemptions to certain individuals to use their trailer as a home, or a mobile home, differently than others. That is my concern in that section.

**Hon. Mr. Lang:** Mr. Chairman, this has to do with the exemptions for trailers and mobile homes used just on a temporary basis. For example, in a construction camp, it may be only set up for two or three months, but, at the same time, the legislation will provide for the taxing of it if it is more or less a permanent installation.

**Mr. Fleming:** Mr. Chairman, I do not quite see why they need that section for anything like that, because those trailers, and things like that, should be licensed, and I do not know where you need it.

I am worried that this one section is allowing the Commissioner, or in this case I guess it would be the Commissioner or whoever the taxing authority is—it says back in the interpretation that that is the Commissioner, to make regulations for any person to allow them to not be taxed, where others would be. That is my concern.

**Hon. Mr. Lang:** Mr. Chairman, the taxing authority not only applies to the Government of the Yukon Territory, but it also applies to a municipality. Therefore, it would be a decision at the local level or, in the case of the Territory's responsibility, our decision to make.

Clause 3(4) agreed to

On Clause 3(5)

Clause 3(5) agreed to

Clause 3(6) agreed to

On Clause 3(7)

**Mr. MacKay:** Perhaps any difficulty that we are trying to overcome in this Section is, presumably, that sometimes it is hard to find the owner. But, in law, what difference does it make if the assessor deems the person who is possessing it to be the owner—that still does not establish who the real owner is, and therefore establish who is going to pay the taxes, does it?

**Mr. O'Donoghue:** es, Mr. Chairman, it does. The person in posses-

sion then becomes liable for the taxes.

**Hon. Mr. Lang:** Mr. Chairman, I think that it is fair to say that if that individual went to the appeal procedure and could prove that somebody else owned the property, then they would be subject to the taxation. It is a case of trying to keep track, and to have somebody pay his fair share. We have all agreed earlier in this House that everybody should be contributing so that no one has too big of a burden.

Clause 3(7) agreed to

On Clause 3(8)

**Mr. Penikett:** Mr. Chairman, I don't understand why the access to this register is limited at all. The Minister, in answer to questions earlier today, talked about fairly wide public access to the records of land ownership, land sales and so forth. Why would it be proposed that the register be open to inspection to any persons authorized by the taxing authority? Why even limit it to that extent? Does that mean to suggest that perhaps the city, let's use the city for example, might have a register handy, and anybody who wanted to look at it could, or is it suggested that access be limited for some good reason?

**Mr. O'Donoghue:** Mr. Chairman, this register that we are talking about is the register which is kept by the owner of the mobile camp, where he has all the mobile homes. It would be in his office. The purpose of this Ordinance is to allow an inspection of that register by a tax inspector to see that he is registering all his people, so they can all be taxed properly. It is not intended to be a public register in the accepted sense of the word.

**Mr. Penikett:** I apologize, Mr. O'Donoghue, but I was looking at Section (6) previously where 'An owner of a trailer or mobile home who fails to register his trailer or mobile home when required to do so under subsection (5), commits an offence'. I thought this was the register, not necessarily of mobile home camps, but some register maintained by the Commissioner.

**Mr. O'Donoghue:** 5(b) is mentioned, Mr. Chairman, and it is 5(b), the keeping of a register by owners or operators of places where trailers or mobile homes are located. It is a private register, Mr. Chairman.

Section 8 agreed to

**Mr. Chairman:** As the time is coming close to 5:30, can the two witnesses be with us tonight at 7:30?

At this time we will recess until 7:30.

Recess

**The following Legislative Returns were tabled on October 15, 1979:**

79-2-18

Haines Junction Trailer Residential Lots

(oral question - October 10, 1979 - Page 350 of Hansard)

79-2-19

Alcohol Treatment Referrals

(written question Number 11)

**The following Sessional Papers were tabled on October 15, 1979:**

79-2-33

The Sharp Report: Rural Students in Urban Schools - August 1979

79-2-34

The Fleming Report: Special Education Services and Kindred Matters - 1978-79